



PROCEEDINGS OF THE GIBRALTAR PARLIAMENT

AFTERNOON SESSION: 3.00 p.m. – 7.20 p.m.

Gibraltar, Thursday, 17th May 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

**Security and immigration post
Number of responses to Borders and Coastguard Agency advert**

Clerk: Answers to Questions continue.
Question 372 of 2012, the Hon. D A Feetham.

5 **Hon. D A Feetham:** Mr Speaker, how many people have applied for the security and immigration post recently advertised with the Borders and Coastguard Agency?

Clerk: Answer, the Hon. the Chief Minister.

10 **Hon. Chief Minister (Hon. F R Picardo):** Mr Speaker, 244 applications were received for the security and immigration post.

15 **Eastside reclamation
Details of current works**

Clerk: Question 460, the Hon. S M Figueras.

20 **Hon. S M Figueras:** Mr Speaker, can the Government provide details to this House of the works currently ongoing at the East-Side reclamation?

Clerk: Answer, the Hon. the Chief Minister.

25 **Hon. Chief Minister (Hon. F R Picardo):** Mr Speaker, the Coastal Works Project on the eastern side of Gibraltar involves the construction of a revetment and infilling of the basin behind it. This is now nearing completion, with the revetment all but complete and the infilling of the general level of the area following closely behind.

30 **Moroccan workers
Number awaiting decision on naturalisation**

35 **Clerk:** Question 461, the Hon. J J Netto.

Hon. J J Netto: Mr Speaker, can the Chief Minister state the number of applications of Moroccan workers awaiting a decision for naturalisation, showing the date of application?

40 **Clerk:** Answer, the Hon. the Chief Minister

Hon. Chief Minister (Hon. F R Picardo): Mr Speaker, the number of applications of Moroccan workers awaiting a decision for naturalisation, as at 10th May 2012, is 145.
I now hand the hon. Member a schedule showing the respective date of applications.

ANSWER TO QUESTION 461 OF 2012

<u>Applicant</u>	<u>Date of Application</u>
APPLICANT 1	15/05/2006
APPLICANT 2	02/06/2006
APPLICANT 3	05/06/2006
APPLICANT 4	22/08/2006
APPLICANT 5	18/09/2006
APPLICANT 6	01/03/2007
APPLICANT 7	14/03/2007
APPLICANT 8	24/05/2007
APPLICANT 9	11/06/2007
APPLICANT 10	28/06/2007
APPLICANT 11	02/08/2007
APPLICANT 12	03/09/2007
APPLICANT 13	13/09/2007
APPLICANT 14	20/11/2007
APPLICANT 15	30/11/2007
APPLICANT 16	23/06/2008
APPLICANT 17	26/06/2008
APPLICANT 18	18/11/2008
APPLICANT 19	18/03/2009
APPLICANT 20	01/05/2009
APPLICANT 21	01/07/2009
APPLICANT 22	27/01/2010
APPLICANT 23	02/02/2010
APPLICANT 24	04/03/2010
APPLICANT 25	24/01/2011
APPLICANT 26	09/02/2011
APPLICANT 27	01/03/2011
APPLICANT 28	22/03/2011
APPLICANT 29	20/08/2011
APPLICANT 30	10/10/2011
APPLICANT 31	12/10/2011

<u>Applicant</u>	<u>Date of Application</u>
APPLICANT 32	13/10/2011
APPLICANT 33	13/10/2011
APPLICANT 34	20/10/2011
APPLICANT 35	24/10/2011
APPLICANT 36	26/10/2011
APPLICANT 37	26/10/2011
APPLICANT 38	26/10/2011
APPLICANT 39	27/10/2011
APPLICANT 40	02/11/2011
APPLICANT 41	07/11/2011
APPLICANT 42	11/11/2011
APPLICANT 43	15/11/2011
APPLICANT 44	15/11/2011
APPLICANT 45	16/11/2011
APPLICANT 46	22/11/2011
APPLICANT 47	24/11/2011
APPLICANT 48	08/12/2011
APPLICANT 49	12/12/2011
APPLICANT 50	12/12/2011
APPLICANT 51	12/12/2011
APPLICANT 52	14/12/2011
APPLICANT 53	14/12/2011
APPLICANT 54	20/12/2011
APPLICANT 55	03/01/2012
APPLICANT 56	06/01/2012
APPLICANT 57	07/01/2012
APPLICANT 58	09/01/2012
APPLICANT 59	11/01/2012
APPLICANT 60	12/01/2012
APPLICANT 61	16/01/2012
APPLICANT 62	18/01/2012
APPLICANT 63	19/01/2012
APPLICANT 64	24/01/2012
APPLICANT 65	26/01/2012

Applicant	Date of Application
APPLICANT 66	26/01/2012
APPLICANT 67	26/01/2012
APPLICANT 68	30/01/2012
APPLICANT 69	31/01/2012
APPLICANT 70	01/02/2012
APPLICANT 71	07/02/2012
APPLICANT 72	10/02/2012
APPLICANT 73	20/02/2012
APPLICANT 74	20/02/2012
APPLICANT 75	22/02/2012
APPLICANT 76	22/02/2012
APPLICANT 77	22/02/2012
APPLICANT 78	29/02/2012
APPLICANT 79	10/03/2012
APPLICANT 80	15/03/2012
APPLICANT 81	20/03/2012
APPLICANT 82	22/03/2012
APPLICANT 83	22/03/2012
APPLICANT 84	25/03/2012
APPLICANT 85	28/03/2012
APPLICANT 86	29/03/2012
APPLICANT 87	05/04/2012
APPLICANT 88	10/04/2012
APPLICANT 89	13/04/2012
APPLICANT 90	17/04/2012
APPLICANT 91	24/04/2012

Applicant	Date of Application
APPLICANT 92	28.11.2011
APPLICANT 93	03.09.2011
APPLICANT 94	17.12.2011
APPLICANT 95	24.10.2011
APPLICANT 96	13.01.2012
APPLICANT 97	12.01.2012
APPLICANT 98	18.06.2008
APPLICANT 99	08.09.2004
APPLICANT 100	30.09.2005
APPLICANT 101	03.07.2008
APPLICANT 102	22.03.2011
APPLICANT 103	09.12.2011
APPLICANT 104	20.01.2012
APPLICANT 105	30.01.2012
APPLICANT 106	31.01.2012
APPLICANT 107	23.11.2011
APPLICANT 108	18.06.2008
APPLICANT 109	04.07.2006
APPLICANT 110	07.12.2011
APPLICANT 111	07.02.2012
APPLICANT 112	08.02.2012
APPLICANT 113	20.01.2012
APPLICANT 114	17.02.2012
APPLICANT 115	16.02.2012
APPLICANT 116	20.02.2012
APPLICANT 117	21.11.2011
APPLICANT 118	05.12.2011
APPLICANT 119	26.11.2011
APPLICANT 120	02.02.2012

<u>Applicant</u>	<u>Date of Application</u>
APPLICANT 121	02.12.2011
APPLICANT 122	13.03.2012
APPLICANT 123	06.12.2011
APPLICANT 124	12.01.2012
APPLICANT 125	07.03.2012
APPLICANT 126	16.03.2012
APPLICANT 127	15.03.2012
APPLICANT 128	21.03.2012
APPLICANT 129	07.03.2012
APPLICANT 130	26.03.2012
APPLICANT 131	20.03.2012
APPLICANT 132	26.03.2012
APPLICANT 133	28.03.2012
APPLICANT 134	24.03.2012
APPLICANT 135	28.03.2012
APPLICANT 136	13.04.2012
APPLICANT 137	16.03.2012
APPLICANT 138	24.02.2012
APPLICANT 139	30.03.2012
APPLICANT 140	10.04.2012
APPLICANT 141	13.04.2012
APPLICANT 142	10.04.2012
APPLICANT 143	19.04.2012
APPLICANT 144	05.10.2011
APPLICANT 145	24.04.2012

<u>Applicant</u>	<u>Date of Application</u>
(DEFERRED CASE NO.1)	25.05.2006
(DEFERRED CASE NO.2)	15.08.2006
(DEFERRED CASE NO.3)	14.02.2008
(DEFERRED CASE NO.4)	01.08.2008
(DEFERRED CASE NO.5)	02.12.2009
(DEFERRED CASE NO.6)	26.07.2008

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Hon. J J Netto: Mr Speaker, I wonder whether the Chief Minister is in a position, perhaps, to say when is the likely date that, maybe in the foreseeable future, when some of these applications may come to fruition and, if so, could he speculate as to the number of successful applications.

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Hon. Chief Minister: Well, Mr Speaker, as was the case, I assume, when the hon. Members were in Government, there is a steady stream of applications, about 10 a week – I assume that steady stream will stop at some time. I can tell him that there are 145 persons on the list, as he now knows, and that, since 1st January... nothing had happened between 9th December and 1st January.

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Since 1st January we have naturalised a total of 106 Moroccans who had applied and 29 other nationals – that is a total of 135 – by applying the same policy criteria that had been used to naturalise before.

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The hon. Gentleman will not be able to discern from the list I have given him, how many of the people on that list – of the 145 – actually would be entitled to be naturalised based on the criteria used before 9th December – which has been the same one maintained after 9th December – because there are some people there who may have been here for more than 5 years but less than 10, and some people who have been here for more than 10 years but less than 20. Therefore, there may be an issue with different people qualifying for the exercise, or rather for the right, to be naturalised, in that sense. So I do not think it is possible to give any indication in respect of each of the individuals on the list, because each case is different and there may be...

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What I can tell him is that I meet – I think it's fair to say, on a monthly basis, because Immigration and Civil Status is one of my responsibilities – I meet on a monthly basis with the Principal Immigration Officer and with the Chief Secretary, so that we go through all of the pending applications. If there is a policy decision which affects an applicant coming within the policy which enables them to have the naturalisation, then that is happening on a monthly review basis.

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

**GSLP economic growth forecast
Government position**

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Clerk: Question 462, the Hon. D A Feetham.

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Hon. D A Feetham: Does the Chief Minister still believe that the Government is on course to meet his party's prediction at the last Election, of 50% economic growth over the next four years?

Clerk: Answer, the Hon. the Chief Minister.

85 **Hon. Chief Minister (Hon. F R Picardo)::** Well, Mr Speaker, before starting the answer which is written, which I am going to read out I should say, but of course it is not just my party, it's my party and the Liberal Party that fought the Election together and our manifesto was a joint manifesto.

Mr Speaker, this question seeks an opinion which, under the provisions of Standing Order 17(1)(vii), should not be the subject of a Question in this House. In any event, Mr Speaker, I am going to reply and I am going to say that I am happy to disappoint the hon. Gentleman, by reaffirming to him that we, on this side of the House, all remain confident of meeting our manifesto commitments.

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**European investors
Progress made since answer to Question 81/2012**

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Clerk: Question 463, the Hon. D A Feetham.

Hon. D A Feetham: Is the Chief Minister in a position to update this House on any progress he may have made with the European investors he said he had up his sleeve, since he answered Question No. 81 of 2012?

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Clerk: Answer, the Hon. the Chief Minister

Hon. Chief Minister (Hon. F R Picardo):: Mr Speaker, not in any substantive sense.

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Hon. D A Feetham: Well, in what sense has he made progress?

Hon. Chief Minister: In a sense that I cannot announce.

Hon. D A Feetham: Why cannot he announce it?

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Hon. Chief Minister: For the reasons I gave in answer to Question 81 of 2012.

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**Defence Transfer Adviser
Selection of postholder**

Clerk: Question 464, the Hon. D A Feetham.

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Hon. D A Feetham: Can the Chief Minister confirm whether someone has been selected to the post of Defence Transfer Adviser?

Clerk: Answer, the Hon. the Chief Minister.

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Hon. Chief Minister (Hon. F R Picardo):: Mr Speaker, the recruitment process is currently ongoing. My understanding is that interviews are scheduled to take place on Friday 18th May 2012, and one interview was held earlier this week at the request of one of the applicants because he would have been unable to attend on Friday due to a medical appointment.

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Hon. D A Feetham: How many people have applied for this particular post?

Hon. Chief Minister: Seven.

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Hon. D A Feetham: Is he aware of the rumours rife in town that a particular candidate has already been selected for this particular post – somebody who was, in fact, working in the MoD and is going to retire on a considerable pension – and that he has already been promised this particular post by the Chief Minister himself. Is he aware of this?

Hon. Chief Minister: Mr Speaker, yes, I am aware of the baseless rumour that the hon. Gentleman decides to elevate to the floor of this House.

140 **Hon. D A Feetham:** Will he deny it?

Hon. Chief Minister: Indeed, Mr Speaker, given that the board that is going to be considering these applications is made up of the Financial Secretary, the Head of the Human Resources Department, and an SEO in his Department, I would have thought that is a fairly strong board to suggest is going to be in any way subject to *somebody else* determining who the successful applicant is going to be.

150 **Aggregate public debt
Breakdown by Government debenture issues**

Clerk: Question 465, the Hon. P R Caruana.

155 **Hon. P R Caruana:** Mr Speaker, can the Chief Minister give a breakdown by debenture issues as at the 31st March 2012, of that part of the aggregate public debt which comprises Government debentures?

Clerk: Answer, the Hon. the Chief Minister.

160 **Hon. Chief Minister (Hon. F R Picardo):** Mr Speaker, I will answer this Question together with questions 466, 467 and 469.

165 **Aggregate public debt
Unrelated to Government**

Clerk: Question 466

170 **Hon. P R Caruana:** Mr Speaker, will the Chief Minister say whether, as at 31st March 2012, *any* of the aggregate public debt comprises debt due other than to banks or holders of Government debentures that are unrelated to the Government?

175 **Gibraltar Savings Bank
Breakdown of debentures and other debt security**

Clerk: Question 467.

180 **Hon. P R Caruana:** Will the Chief Minister give a breakdown, by nominal value and issue, of the debentures or other debt security that had been issued by the Gibraltar Savings Bank and remain outstanding as at the 31st March 2012?

185 **Tax receipts for the year ending 31st March 2012
Breakdown and inclusion in Consolidated Fund Revenue**

190 **Clerk:** Question 469.

Hon. P R Caruana: Will the Chief Minister say how much has been collected in respect of (i)

195 Corporation Tax and (ii) Personal Income Tax, during the financial year ended of 31st March 2012, (a) in respect of the current tax year, and (b) in total; and will the Chief Minister confirm that all monies collected during the financial year just ended are included in the forecast outturn of Consolidated Fund revenue for the year ended 31st March 2012?

Clerk: Answer, the Hon. the Chief Minister.

200 **Hon. Chief Minister (Hon. F R Picardo):** Mr Speaker, in relation to questions 465 and 467, I now hand the hon. Gentleman a statement giving the information requested.

ANSWER TO QUESTION 469

Answer to Question 465

Summary of the Public Debt as at 31st March 2012

Government of Gibraltar Debentures

	<u>Maturity</u> <u>Date:</u>	
Pensioners' Monthly Income Debentures		£49,609,100
Monthly Income Debentures		£8,579,800
Special Issue of Monthly Income Debentures 2008		£49,879,200
Limited Issue of 3-Year Fixed Monthly Income Debentures	30/06/2012	£22,375,700
Limited Issue of 3-Year Fixed Monthly Income Debentures	31/12/2012	£33,443,400
Limited Issue of Fixed Monthly Income Debentures	31/12/2013	£15,188,000
Limited Issue of Fixed Monthly Income Debentures	31/12/2015	£70,294,300
Limited Issue of Fixed Monthly Income Debentures	28/02/2017	£68,305,800
Total Public Debt that is comprised of Government Debentures :		<u>£317,675,300</u>

CONTD ANSWER TO QUESTION 469

Answer to Question 467

Summary of Debentures and other Debt Security issued by the Gibraltar Savings Bank as at 31st March 2012:

Gibraltar Savings Bank Debentures

3 Year Fixed Term Monthly Income Debentures (Maturing 1/2/15)	£1,764,300	
5 Year Fixed Term Monthly Income Debentures (Maturing 1/2/17)	£19,648,800	
Monthly Income Debentures (Issued 17/1/12)	£440,800	
Monthly Income Debentures	£10,253,000	
Pensioners Monthly Income Debentures	£7,305,700	
Other special Debenture Issues @ 2%	<u>£2,275,492</u>	
		£41,688,092

Gibraltar Savings Bank Bonds

10-Year Accumulator Bond (Issue date 01/02/12)	£791,800	
Guaranteed Superannuation Fund Bond	£904,045	
8% Provident Trust Fund No. 2 Pension Scheme EX Bond 1	£562,766	
8% Provident Trust Fund (Bond 1)	£2,576,301	
8% Pension Rights and Gratuity Transfers (Bond 2)	£4,676,159	
8% Provident Trust Fund No. 2 Pension Scheme - EX JMH	£87,033	
Gibraltar Provident Trust (J.M.H.) Pension Scheme	£251,723	
GSL 11% Bond	<u>£21,152</u>	
		£9,870,979
Total Gibraltar Savings Bank Debentures and Bonds as at 31st March 2012		<u>£51,559,071</u>

In relation to 466, the aggregate public debt is comprised solely of debt that is due by the Government to banks and to holders of Government debentures. (*Interjection*) Yes, of course.

Mr Speaker, on 466, the aggregate public debt is comprised solely of debt that is due by the Government to banks and to holders of Government debentures.

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Mr Speaker, in relation to 469 –

Hon. P R Caruana: That are unrelated to the Government [*inaudible*]?

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Hon. Chief Minister: That are not related to the Government.

Is that not what the Question asked for? That is the answer I have been given by the Treasury.

So, Mr Speaker, I can confirm, in relation to Question 469, that all monies collected during the financial year ended 31st March 2012 are included in the forecast outturn of the Consolidated Fund revenue for the said year.

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The specific figures that the hon. Gentleman has asked about, as he is aware, are already in his possession and are reflected on page 6 of the Confidential Draft Estimates of Revenue and Expenditure for 2012-13, at Head 1 of Consolidated Fund Recurrent Revenue, sub-heads (1) and (2).

The figure, Mr Speaker, remains confidential to Members of this House and of the Treasury – and, I guess, the printers who prepared it – until such time as we have the debate on the Appropriation Bill.

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Hon. P R Caruana: Mr Speaker, well, if I can just deal with the last point first: that was not the question.

I *know* that the forecast outturn of Government revenue is to be found in the book: that is not the question that I have asked him. The question that I have asked him is whether *all* of the income tax collected before the end of the financial year, regardless of whether it is attributable to one tax year or to another, are accounted for in the forecast outturn of the book that, in other words, are accounted for in the number to which he has referred in his answer. In other words that there is no... that the hon. Members have not adopted any practice of saying, “If we have collected money for next year’s tax in advance, we are holding it on account or in suspense, and we will bring it into account next year”. No... that is the question.

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The answer is ‘no’, then.

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Hon. Chief Minister: No, and I think there is agreement across the floor of the House that it is a cash account and, therefore, we do not do that.

Hon. P R Caruana: Exactly.

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Well, Mr Speaker, if I could just have a moment to... If I could just press him to clarify his answer to Question 467, because he quoted back the whole of my question in his answer, except the bit that I am concerned with, which is, ‘unrelated to the Government’, in other words, the banks to which public debt is owed are, for example, Barclays Bank and NatWest, and not, for example, the Savings Bank, so there is no... the Savings Bank is not buying Government debentures. That is the question, really.

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Hon. Chief Minister: Actually, that is not an issue that need concern the hon. Gentleman.

Hon. P R Caruana: So the answer is ‘no’, that is not happening

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Hon. Chief Minister: No, that is not happening.

Gibraltar Savings Bank Management of expanded facilities

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Clerk: Question 468, the Hon. P R Caruana.

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Hon. P R Caruana: Yes, Mr Speaker, can the Chief Minister say, what is the Government’s intention as to who will manage the expanded Gibraltar Savings Bank for which they have purchased the ex Marrache & Co office building in Main Street? And who will make decision on such things as the making of loans to businesses, or the issuing of credit guarantees to businesses?

Clerk: Answer, the Hon. the Chief Minister.

260 **Hon. Chief Minister (Hon. F R Picardo):** Well, Mr Speaker, the Gibraltar Savings Bank, which will be housed at the ex-Banque Indosuez building alongside the Treasury Department which will also move there, will continue to be managed by the Treasury Department, under the direction of the Director of the Gibraltar Savings Bank, who is a Public Officer, designated by the Government from time to time for this purpose under the Gibraltar Savings Bank Act.

265 At present, as I think was the case when he was holder of this Office, the Director of the Gibraltar Savings Bank is the Accountant General. The provision of loan facilities for small business to help them expand and see them through periods of difficulty and the operation of a loan guarantee scheme for such small businesses are also stated aims of the expansion and the criteria and management of that will be subject of a public statement when it commences.

270 **Hon. P R Caruana:** So, Mr Speaker, is the hon. Member saying that those facilities will be managed by the Accountant General, too – in other words, the decisions to make small loans and small loan guarantees? And / or, because you could guarantee a loan made by another bank, or you could make the loan yourself, or you could issue the guarantee, so by any permutation, regardless of the permutation, whether it is direct or indirect... The point I am getting to, Mr Speaker – and I will get to it directly, rather than in layers – is, does the hon. Member accept that the questioner is, in principle, in favour of an expanded role of the Savings Bank and is *in principle* in favour of Government promoting and even taking a minority shareholding in a Bank for Gibraltar because, for any number of reasons, we think that one is necessary. So that is where I am coming from.

280 But does the hon. Member accept that, even if there is consensus on the desirability of such a thing, there are many ways of doing it and there are some ways upon which we might disagree. For example, if you look at the experience of the Spanish local savings banks, the regional, the so-called *Cajas*, and even the German *Länders*, wherever, *wherever* in Europe historically there has been *politically* controlled financial or banking institutions, it has *always* resulted in lending decisions or risk taking decisions driven by political considerations and not strict economic, prudent risk management operations, with the taxpayer ultimately exposed to the consequences of it. Does the Hon. the Chief Minister share our view that that is a concern, and a risk that needs to be guarded against?

285 Would he, therefore, not prefer what would have been our approach – because we would have pressed forward with something like this if we had won the Election – along the lines of a more privately managed bank, with professional management and professional private sector risk taker, with private sector capital, with the Government at best in some sort of minority but non-controlling decisions, so that the Government does not feel under pressure – under political pressure – for the decisions that the bank makes, or declines to make, in terms of supporting or not supporting particular potential applicants for small business loans and others?

290 **Hon. Chief Minister:** Mr Speaker, he need not concern himself with the idea of political involvement in loaning etc. I don't know that I can accept the premise that he has made. He has drawn it pretty widely, that *every* bank which has involved... I mean it may be that he is right: certainly, those that have hit the news seem to have had that problem and most of them that hit the news that are of the sort that he describes have involved politicians somehow being in the mix in some sense.

295 That is not what we are envisaging here. We think that there is a *different* way of doing this. We do not envisage any of the concerns that the hon. Gentleman has articulated being relevant, in the way that this may become a reality. He will, no doubt, agree with me that it is not *only* the way that the hon. Gentleman has described the potential alternative that could materialise, there are different permutations that could materialise here. You could, for example, have third party lending institutions involved in assessing the risk and granting the loan and the Government – not the Government, the Gibraltar Savings Bank – agreeing, under certain agreed parameters, perhaps involving the Chamber of Commerce and the Federation of Small Businesses ticking off what those criteria should be, involved in some guarantee scheme.

300 There are very many different permutations. Many of those are the ones we are looking at at the moment. None of them would give rise to the sort of concerns that *he* has articulated this afternoon.

**Commercial use of airfield
Current status of agreement with MoD**

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Clerk: Question 470, the Hon. P R Caruana.

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Hon. P R Caruana: Mr Speaker, will the Chief Minister say what is the current status of the agreement between the Government and the United Kingdom Ministry of Defence relating to the commercial use of the airfield?

Clerk: Answer, the Hon. the Chief Minister.

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Hon. Chief Minister (Hon. F R Picardo): Mr Speaker, the agreement between the Government and the MoD on the commercial use of the airfield expired on 31st December 2011. The parties have agreed to hold over on the same terms, pending discussions and further negotiations until the end of September 2012.

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Hon. P R Caruana: Mr Speaker, can the hon. Member confirm that the Government has continued... the agreement has been held over, so it has expired but it continues in operation: in other words, the Government is paying and it continues to operate as if it was still in force?

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Hon. Chief Minister: We have agreed to extend the period of validity of the agreement, with both parties continuing to talk about how it should be renewed, or not renewed, for nine months, so therefore we have continued, or we will continue, until the end of September 2012, to have an obligation to pay the amounts which are relevant in respect of that agreement, as if it had been continued or expired at the end of September.

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Hon. P R Caruana: Mr Speaker, does the hon. Member consider that the criteria that the predecessor Government – that is us – applied in entering into the agreement in the first place continue to prevail – assuming that he accepts that they ever prevailed! – but that they continue to hold good, namely that if Gibraltar is to be able to... if his colleague the Minister for Tourism and Aviation – I can't remember which of the two he has given this particular function to – if they are to go abroad with confidence to try and promote the route, to try and develop routes, to try and encourage airlines to come to Gibraltar, it is *essential* that the decisions as to tariffs and things of that sort that airlines are charged *must* be in the control of the Gibraltar Government because airlines are increasingly cost sensitive. What is not acceptable is for the Ministry of Defence to do with tariffs what they please, regardless of the implications of those *[inaudible]* to airlines' willingness to either continue on the route, if they are already here, or to be attracted to the route if they are not. In other words, we cannot go around promoting a resource, an amenity – that is going to become the word that *[inaudible]* (*Laughter*).

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We cannot go around promoting an amenity, the attractiveness of which, and therefore other people's ability to enjoy, is in the hands of somebody *other than* the Gibraltar Government. *That* is what caused the Gibraltar Government to consider it desirable to obtain the degree of management control that we now have over commercial use of the airfield, including setting of tariffs, keeping of tariff revenues, in exchange for contributing half of the operating costs of the runway. Even though I do not know in what circumstances it has arisen, but even if the hon. Members want and attempt to renegotiate some of it, that the underlying premise remains that the hon. Members are not contemplating handing control of it back to the Ministry of Defence who will make decisions by a quite different set of criteria.

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Hon. Chief Minister: Well, Mr Speaker, the hon. Gentleman would have known – which we found out – that the agreement that he refers to expired exactly three weeks after we were elected, and part of that period involved the Christmas celebrations and holidays. So, Mr Speaker, we are in the process of discussing with the MoD a lot of the issues that arise. I am sure that even if he had been returned to office he may not simply have asked that it be renewed in exactly the same terms. I accept why it is he said *he* was concerned to enter in to such an agreement. I think that there are valid concerns that he raises which continue to be valid.

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I think the operation of the agreement has thrown up some issues that we need to look at quite carefully in order to protect Gibraltar's interests in respect of such an agreement. But I do not believe, Mr Speaker, that the analysis that the hon. Gentleman does is exactly right. In other words, it is not that the RAF takes *control* again of the issue, it is that the RAF *has control* of what they charge at the moment: it is simply subject to the

agreement with the Government that that charge is raised as a fee to the Government and the Government then charges... (*Interjection*)

370 Yes, I think, Mr Speaker, it is the case for this reason – I will allow the hon. Gentleman to question me from a sedentary position to this extent – there is an agreement now, there is a flat fee paid and the Government fixes landing fees. That agreement was calculated, as I understand it, based on an estimated number of landings and that is how the calculation was arrived at. That is, at least, the impression that we were given, but if the hon. Gentleman wants to say something about it in a minute, I will accept, if he does
375 have something to say, he should tell us.

So, Mr Speaker, that criteria that the hon. Gentleman has referred to is a very important part of what it is that we are looking at. Of course, it is. But there are other issues which are relevant also. I have no difficulty, Mr Speaker, in having a word with him afterwards about what those may be but, although the MoD is not a third party commercial concern, it is on the other side of the negotiating table on this issue. Therefore, I am
380 happy to listen to what he has to say, but perhaps we could have a chat later about some of the nuances of what *we* are thinking of.

Hon. P R Caruana: Well, Mr Speaker, I can tell him that, I don't know who has given him *that* explanation of how the agreement is structured, but it is certainly not correct.

385 There is no question here of the MoD establishing tariffs and being a flat fee. It is the fact that the Gibraltar Government sets whatever tariffs it wants, is *entitled* to the revenue from the commercial use of the airfield, whatever it might be: that is in our hands, so the MoD no longer get a share of... they no longer benefit from... except that there are either some revenue profit-sharing... From memory, there may be some sharing beyond a certain level, but all of that in exchange for the Government's payment of half the opex of
390 the operating costs of the airfield which, regardless of whether that results in a profit or loss for the Government – and it might or might not result in a profit or loss – depending on the *success* of attracting services to the airfield, especially as the Government also gets other sources of revenue from increased services that *can* be attracted by cheaper tariffs than the RAF may have established. We get passenger taxes and other things... rather, Gibraltar does. And that is the nature of the agreement,

395 Mr Speaker, this is not an issue that I have. I mean, I believe that it is hugely in Gibraltar's interests for the Gibraltar Government to be in that sort of operational control of the commercial operations of the airfield so that it is the Gibraltar Government who, in the macro-economic interests of Gibraltar, decides at what level to pitch the tariff. It might want to subsidise them as a means of attracting airlines that would otherwise stop coming to Gibraltar: that decision to do that, or not to do that, has to be a decision taken by the Gibraltar
400 Government and the pricing policy cannot be left to the MoD, that will make it for budgetary reasons, regardless of the macro-economic impact on Gibraltar.

Now that is the objective. For the rest of it, if the hon. Members can negotiate a better deal than we were able to negotiate, good for the hon. Members opposite. I am not concerned with a photocopy extension of the new agreement. Simply, the thrust of my questioning is just to seek from the hon. Member some sort of
405 commitment to the underlying principle of the importance of Gibraltar being in control of what is, ultimately, an important macro-economic factor.

If there is to be a renegotiation, that is a bilateral matter between the Government, in the first place, between the Government and the MoD, but I will say to him this: if he has the slightest doubt or if, in that renegotiation with the MoD, the conversations of the agreement that was first, and what was said and what it
410 meant – if any of that – is not available to him, on our side, I am perfectly happy to provide the Gibraltar Government with such continuity of input, of the history of the original deal, if he thinks that there is the slightest doubt that the original scheme might be being misrepresented to him and that that might, somehow, impair his ability to seek a successful renegotiation.

415 **Hon. Chief Minister:** Mr Speaker, I am grateful.

You see, I am not suggesting that he could have done a better deal two years ago, or four years ago or six years ago – I do not know what the length of the current agreement had been.

420 What I am saying is that, having lived out the period of its validity, it is now possible to go back and analyse what were the things that were envisaged, how those have materialised, how they have not materialised, and how it may be possible, for that reason, to seek a more advantageous determination of any agreement that there may be, or a different way of doing what the hon. Gentleman is saying, which we, on this side of the House, agree with, namely that, in terms of the commercial operations of the airport, the

Government must be the ones that can go around telling commercial operators what it will cost them to land at Gibraltar. Now there are many different ways of achieving that, and the hon. Gentleman did one of them, which was to do an agreement with the RAF, or the MoD, in effect, to say, right, I will pay half of what you call your opex here, and I will then bear any losses, or pocket any profits, in respect of commercial landing fees that we are able (*Interjection by Hon. P R Caruana*) to recover from the airlines in that respect. I accept that that was *achieved* by the first agreement: he will agree with me, not very profitably.

Now, I think that that is an issue that we are looking at in a way that he, I hope, if we are able to deliver a more profitable equation, will agree it is not just good for us, as he said, but good for all of us. I am not pretending that there might have been any negotiating failure on his part. It is only after the agreement had lived out its *initial* life that it would be possible to analyse backwards whether the cost benefit analysis was based on the equations that he had on the table when he did that negotiation. Those are the issues we are looking at.

Hon. P R Caruana: Well, Mr Speaker, I do not want to risk straying into the public airing of issues that might benefit one side – the other side – more than our side in the negotiation, but as to whether it was profitable or not, that depends on how you measure profitability.

In the first place, it depends on what revenue he is putting on the other side of the column, against the 50% share of operating expenditure. If he is just putting against the revenue, against the operating expenditure contribution, if he is only putting the landing charges or the parking fees – which is what that buys us control of – (*Interjection by Hon. Chief Minister*) well, obviously, that does not produce a profit. But if he puts in the passenger taxes, the economic benefit of business done through the terminal by passengers and then factors, into both of those, passenger taxes and all of that, the traffic that might *not* have been generated if the MoD had priced the cheaper airlines out of the market, and then not only would we have lost the revenue but, more importantly – because, at the end of the day, Gibraltar needs to have an airport, like all these other places, even if it is subsidised by the Government: obviously we would like the subsidy to be as little as possible, but I do not think anybody is suggesting, and I hope *they* are not suggesting, that we do not want an airport unless it is cost neutral – if you measure profitability as a book-keeper would measure it, in our view that would not be the right way to do it.

You have got to value the macro-economic and societal benefits of having multiple services, by multiple airlines, who might not come unless the Government is in a position to give them discounts and deals on landing charges, and have a tariff structure with which they are content to come. *He* knows just how price conscious international airlines now are, and he knows very well that in most regional airports in Europe – not all – but in most regional airports in Europe, the airport authority actually pays the airline to come to the airport. One famous low cost airline came to us, demanding that, and we said ‘No, thank you’, so the economics of an airport are not as simple as the hon. Member says, and I would ask him to acknowledge that profitability depends on how you measure it.

Hon. Chief Minister: Absolutely, Mr Speaker.

He is absolutely right about that and you can put on the column of profitability just the landing fees, just the parking fees or you can add the passenger tax etc. At some stage, you have also got to say ‘Well, if I take this into the column in the analysis of *this* agreement’ – and I am going to ask him that we please not carry on, and continue this conversation outside – ‘all of those streams of revenue, then you have got to take it again out of your subsidy to the maintenance cost of the airport.’

In other words, either these things go towards the running of the airport, or they go *here* towards mitigating what this agreement costs us. But, look, that is the book-keepers’ approach, which I am not taking to the [*inaudible*]. I am keeping the book-keeper well at bay on this issue (*Interjection and laughter*). I understand that there are opportunity costs here, I understand that there are wider issues than just pounds, shillings and pence, based on tourism, availability of the sort of flights that we want to have, not just in terms of low cost airlines but also the airlines that provide the sorts of services, as a finance centre, we want to have available.

So it is not *just* an economic analysis, but there are economics here as part of the analysis, I hope you will agree. Therefore, looking at that equation and the formulae, that is where we are in terms of analysing where this agreement should go in its next incarnation.

**Positions filled without advertising or formal selection
Details of all Government or related posts**

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Clerk: Question 471, the Hon. P R Caruana.

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Hon. P R Caruana: Mr Speaker, will the Chief Minister give details of all persons, if any, employed by, or promoted to, a more senior position within the Government, the GDC or any Government Company, Agency or Authority without a public advertisement of vacancy followed by a selection board?

Clerk: Answer, the Hon. the Chief Minister.

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Hon. Chief Minister (Hon. F R Picardo): Well, Mr Speaker, in respect, first, of civil servants, a Senior Executive Officer has been upgraded to Assistant Human Resources Manager with effect from 26th January 2012 – and please note that, for pay purposes, her salary is a fixed point between the maxima of the Senior Executive Officer and the maxima of the Senior Officer – having been Acting Human Resources Manager from September 2010.

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A Senior Executive Officer has been upgraded to Senior Officer with effect from 3rd January 2012 in the Parliament, upon the post of the Clerk to the Parliament having been upgraded in like manner. Both cases were referred to the Public Service Commission, for their recommendation to the Governor.

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In the Gibraltar Sports and Leisure Authority, two Clerical Assistants who are GSLA Grade 9s... (*Interjection by Hon. P R Caruana, followed by laughter*) – I maintain that the hon. Gentleman is more fun to deal with when he is being angry than when he is making fun of me! (*Laughter*). So two Clerical Assistants in the GSLA have been employed as from the 1st May 2012. The vacancy was advertised but no selection process carried out because both were long-term trainees through the ETB who had applied for the posts in question. A Sports and Leisure Assistant, who was a GSLA Grade 13, has been employed to commence work on 1st June 2012 – this vacancy was not advertised nor a selection board carried out because, in this case, the person is a long-term trainee on a sheltered employment basis; and an Assistant Pool Manager, GSLA Grade 11, three Pool Operatives/Lifeguards at GSLA Grade 13 and a cleaner have been employed to commence work on 1st June 2012. These vacancies were not advertised: these persons were all ex-GASA employees who have been retained by the GSLA, as the Authority who will be taking over all responsibilities for the running of the swimming pool complex as from that date – from 1st June 2012. However, they were all interviewed to assess their suitability.

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Hon. P R Caruana: Mr Speaker, dealing with the civil servants first, I actually was a very strong believer that people should be, in appropriate cases, upgraded in post. The Civil Service Union would come in on behalf of a particular officer and say we think this Officer is doing a job which appertains to a more senior grade, therefore we claim on his or her behalf that he or she be upgraded, and, of course, on occasions the Government agreed and, on occasions, the Government disagreed. That is called upgrading in post, in other words the person gets upgraded with the post because the person is doing a job that appertains to a higher grade or post. But when the Government wanted to do that – I do not know whether he is aware – as a matter of management judgement, rather than as a matter of union claim, this was a bellicose act. So upgradings in post were okay when the *Union* claimed it, but absolutely *verboten* when the Government wishes to do it. The question, therefore, is this: has the GGCA or Unite objected to the cases that he has announced, in terms of the Civil Service, of people upgraded in post, have they complained about that? And is he satisfied that it is consistent with his manifesto for the Civil Service which, as I recall, suggested that in future promotions would be on a different basis.

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Hon. Chief Minister: Well, Mr Speaker, in respect of the first, which is the Human Resources aspect, we are talking about the person – without naming them because I do not think it is appropriate to do so – who had been the Acting Human Resources Manager for two years, that was put in this position, (*Interjection by Hon. P R Caruana*) Mr Speaker, with close consultation with the GGCA. Mr Speaker, I say that because one of the key things that the hon. Gentleman will have seen in our manifesto was this question of the Civil Service Review and the effect of the Civil Service Review and the filling of vacancies etc etc required that the Human Resources Department should be able to operate, and he will know that in the last 2 years of his Administration there had been no Human Resources Manager, and for that reason Mr Speaker a Human

Resources Manager has now been appointed and this individual has been upgraded to Assistant Human Resources Manager with the Union so that was not an issue.

535 Mr Speaker, in respect of the other post, the issue has been for us that this Parliament is changing. The hon. Gentleman knows that that is the case and we are bringing much more work to the Parliament, we are meeting on a monthly basis and therefore we believed it was appropriate that the post should be upgraded to the post of Senior Officer. I don't see that that conflicts in any way with the approach that we have agreed to take and had set out in our manifesto, would be the way to deal with things in the Civil Service if we were elected. So I don't think that's an issue at all.

Hon. P R Caruana: Mr Speaker, the merits or lack of merits of the particular Civil Service examples that he has given is not what concerns me.

545 I am concerned with process. *Either* the Government believes that promotions within the Civil Service and, indeed, recruitment *into* the Civil Service should be by public advertisement and Public Service Commission or departmental – depending on the grade – selection board, followed by PSC approval, endorsement – and therefore it must do so in all cases – or it does not believe in that, and like us – *like us*, like my Government when we were on that side of the House – it believes that the Government, as a management device, *should* have available to it the power to upgrade people in post in appropriate circumstances.

550 Now, Mr Speaker, the practice that *he* has described, which we did *too*, is not a practice that the Civil Service union approved of – yes, Mr Speaker – and obtained from us an assurance that we would not carry it out.

555 Mr Speaker, if I can move on, if I could ask him a supplementary. Yes, upgradings in post... in other words, the Clerk of the House is under-graded for... the Clerk or whoever of the House, for example, is under-graded, for the nature of the work or the nature of the responsibility, or the volume, or a combination of all of them *and*, therefore, should be re-graded up to a higher post, and then the question arises, whether the incumbent in the original post should either be moved up with the upgraded post, or whether the upgraded post should be opened, with the risk that the incumbent may not win it – which I always thought was a *complete and utter nonsense* when the reason for the post, amongst other reasons, was that the incumbent was doing, successfully, the work that justified the post being upgraded in the first place.

560 All I am saying to the hon. Member is that that was hugely objectionable to the Civil Service unions at the time and I resisted them for as long... and one of the issues which did for the Civil Service reform was the widespread criticism of that very practice by the Government. This is the only reason why I am asking him.

565 Now, if I could ask him a question about the non Civil Service, particularly the GASA ones: these, presumably, Mr Speaker, I think I have correctly understood him to say, that there were two employees of GASA – which is not a Government organisation: I don't know if it is a company or a club or something, that currently runs the swimming pool, the original covered swimming pool which, apparently, the Government is now taking over, which I applaud, because that is something that I would have wanted to do as well, if I had been there. I think it is the logical thing, that that gets incorporated into the Sports and Leisure Authority – what the hon. Member appears to have told me, if I have correctly understood him, is that GASA's employees have been absorbed as part of the takeover, so to speak, into the taking-over organisation.

570 Mr Speaker, that may be fine and I do not criticise that, either, but when the Government, when *my* Government did that in respect of the employees of Knightsfield Holdings when *its* activities were going to be absorbed into the Culture and Heritage Agency, the hon. Member went off to the Principal Auditor and got him to write a report to suggest that there was some irregularity or impropriety about that arrangement, when all we had done was exactly the same thing. Government was going to take over the activities of Knightsfield Holdings, the activities of Knightsfield Holdings were going to be taken over by the Culture and Heritage Agency and the Government simply, therefore, said 'We'll take over the activities *and* the employees'.

580 Does the hon. Member accept that it is exactly the same transaction. If the Government takes over an activity, it cannot just leave, high and dry, the employees that used to be doing that activity with the previous organisation: you take over the undertaking, the employees, the activity and the facilities. That is exactly the same thing. (*Interjection*) Yes, paid employees.

585 **Hon. Chief Minister:** Mr Speaker, no I don't accept that premise, for this reason. Mr Speaker it is one thing to on an effective transfer of undertaking to take on 3 or 4 people at the swimming pool to continue to do what they were doing even though the organisation that runs it becomes a different one at the same pay and on the same terms and conditions that they were involved in. It is *quite another*, Mr Speaker, to take over an

590 organisation not by buying its shares, doesn't have to require, doesn't have to be the position – (*Interjection by Hon. P R Caruana*) – doesn't have to be the position in respect of a transfer, but taking over its activity and changing the terms and conditions of everybody who is coming over and bringing some new people into that equation as we had the debate in this House some time ago, *a dedo*, Mr Speaker, and creating a whole new different organisation.

595 Mr Speaker, that was the equation upon the creation of the Gibraltar Culture and Heritage Agency, that is what we disagreed with, that is what we believe the report from the Principal Auditor also highlights and that is why we think there is absolutely no possible comparison between the two. Mr Speaker, in terms of upgradings – and I know that the hon. Gentleman did a lot of it whilst he was in Government, I have just got what he did in the last year Mr Speaker – (*Interjection by Hon. P R Caruana*) – I'm going to, I mean again Mr Speaker I would rather he got angry, he is easier to deal with than when he is trying to be funny.

600 So Mr Speaker, I do not recognise any equilibrium between the two examples that he has provided.

Hon. P R Caruana: Mr Speaker, he may not see any equilibrium. I have read the Principal Auditor's report: he was good enough to send it to me privately and confidentially, in a manner that I cannot now allude to, as he does. He alludes to its contents, but I who have now read it –

605 **Hon. Chief Minister:** Point of Order, Mr Speaker.

I am quite willing to assist the hon. Gentleman. What I said to him at the time – I said to him across the floor of the House and in the letter that I sent him with the report – was that it was being sent to him on the basis that he would not refer to the names of the individuals who were referred to in it.

610 Other than that, I have no difficulty with him constructing such defence as he wishes, based on what he has seen of the Principal Auditor's statement. That is what *Hansard* will show I have said, and what I think my letter reflected.

Hon. P R Caruana: Mr Speaker, I am very grateful for his clarification. I intend to do precisely that.

615 The point, Mr Speaker, is that what the Principal Auditor was commenting on was on the very practice that he has now done with GASA: he was simply commenting that there had been *no* recruitment process, and I do not understand why the hon. Member is saying that there were people 'roped in'.

620 The Government was mopping up from within other Government Departments and from Knightsfield Holdings, a Government contractor. The Government was putting all the activities together under the umbrella of a new organisation called the Culture and Heritage Agency and was pooling the premises, the people and their functions and responsibility, and bringing them all under one roof.

625 Some of those people were coming from the Knightsfield Holdings Limited, others were already in the Government. We selected a CEO from No. 6 Convent Place. That has now been reversed and, of course you cannot bring people in to the public sector and have them all working at different rates of pay, so you have got to harmonise their pay and conditions to what a Chief Executive of an Authority earns, and to what the people who are coming from the Civil Service earn and are going to be working side by side. But the *basic activity* of getting individuals from the private sector – in your case GASA, and in our case Knightsfield Holdings Limited – and inducting them as part of a takeover of the undertaking, straight in to the public sector, whether it is as an employee of the GDC or the employee of whatever, without advert, it is exactly the same activity.

630 That we then said, 'Right, you have not had a pay review as employees of Government contractors for quite some time because the contract had expired and the price had not been renewed', well, Mr Speaker, there is no difference between that and renegotiating the price of the contract and paying more to the company for *them* to pay their staff more, which is how it is normally done and how it would have been done if the Government had not decided to take over the activity, rather than renew the contract.

635 The idea that the Government could take into the public service employees from a private company that had not been able to keep their income up because the Government had not uplifted their revenue – the company's revenue – and not review the salaries as part of the same activity, Mr Speaker, there are people in this House who know that that is not realistic. For the hon. Member to try and dress that up as some desire to somehow do something for the benefit of those individuals for extraneous purposes is simply indefensible.

640 The fact of the matter is that *he* – and I do not criticise it because I do not say it is wrong. It was, in my view, right when we did it, and it is no less right now that they do it. If they take over activities they have to take over the employees that do those activities as well, and I would ask him to agree with me that takeover practice has to include harmonising the pay to the pay that those functions attract elsewhere comparable in the

public service. That is what I admit to doing and I am certainly not apologetic or defensive about it.

645 **Hon. Chief Minister:** Mr Speaker, I do not accept that that is what the hon. Gentleman did, but never let
it be said that I have accused the hon. Gentleman of trying to be more or less generous to any individual for
any reasons which are anything other than him trying to win the last General Election at any price possible,
650 because, Mr Speaker, to say that all of this talk of pay rises, and keeping people at the right level, only
crystallised in his mind when he came back from holiday – I don't think that he went on quite such a long
holiday in August – and on 1st September started his pay-rise tour of the Rock, when he went around different
workshops and they gave 12% here and 17% there, and then absorbed things which had been done outside of
Government for the past 15½ years, but which he felt were *essential* to be done within Government – *and*
with a pay rise – just in time for a General Election, is not to suggest that he is singling anybody out for
benefit other than himself, in the attempt to use public money to secure votes!

655 But Mr Speaker, we do *not* accept that taking in four or five people at GASA because the GSLA is going
to take over the running of the pool, something which he thinks also is a good idea, is the same as creating an
Agency to do something that was being done in a company, bring in new people to the Agency from different
parts of Government and the Private Sector and creating a new pay regime for that entity, Mr Speaker, it just
is *not the same*.

660 I know that the hon. Gentleman is desperate to cling on to the slightest cover that may *somehow* obfuscate
what he got up to that last quarter, in that attempt to win the General Election. Look, Mr Speaker I don't think
I will ever succumb to that. But look, I salute him for giving it a go, but he should not try and suggest
(*Interjection by Hon. P R Caruana*) that our taking on these people who were at GASA into the GSLA, to
665 continue running the pool on the same pay that they were earning before, on the basis of what is, in effect, a
TUPE transfer, has anything to do with what he did in the Culture and Heritage Agency. They are as different
as night and day.

Hon. P R Caruana: Yes, Mr Speaker, as much the difference between night is day, as getting 400
670 trainees and doubling their pay just before the Election in order for them to carry on doing exactly the same
work (**Several Members:** Hear, hear.) as they were doing before –

Hon. Chief Minister: Mr Speaker, on a point of order!

675 **Hon. P R Caruana:** The only political party –

Hon. Chief Minister: Point of order, Mr Speaker!

Hon. P R Caruana: *The only political party –*

680 **Hon. Chief Minister:** Point of order, Mr Speaker!

Hon. P R Caruana: *What the hon. Member is accusing me of...–*

685 **Mr Speaker:** Order! There is a point of order

Hon. P R Caruana: Well, you don't know yet, whether there is a point of order!

Hon. Chief Minister: Yes, Mr Speaker, there is a point of order.

690 **Mr Speaker:** The Hon. the Chief Minister has said he wishes to raise a point of order.

Hon. P R Caruana: Yes, and are you going to let him do it, whether or not – ?

695 **Mr Speaker:** Until I hear it, I cannot say anything about it.

Hon. Chief Minister: Mr Speaker, it is an *obvious* point of order and I am sure the hon. Gentleman will
accept it.

700 We were not able, however much we would have tried to, to raise the salaries of 400 trainees before the Election, because before the Election, it was only he who had the power to do it, and we who had the power, as any political party to *propose* it, but we could not raise their salaries.

Hon. P R Caruana: Mr Speaker, that is not a point of order; it is just a reply to an argument!

705 **Mr Speaker:** No, exactly, it is a reply.

Hon. P R Caruana: Which is what he always does (*Interjection by the Hon. Chief Minister*) and it is you, Mr Speaker, who always permits it! (*Laughter*)
You *always* fall... The Chair *always* falls for the same trick from the Hon. Mr Picardo!

710 **Mr Speaker:** Well, I –

Hon. P R Caruana: I know that (*Interjection by Hon. Chief Minister*) he was not Chief Minister before 9th December and I know, therefore, that he did not have the power; but does he really think that that distinction is relevant, forensic, to the political point that we are debating?

715 The fact of the matter is that it was *he* who went around Gibraltar saying to people, ‘If you vote for me, I will double your income for exactly the same as you were doing before for half the income.’ And then he comes to this House and says that *I* was doing it, which I did not, and then he says that roping in, without advertisement, into the public sector, employees of GASA, because the Government was going to take over the pool, somehow that is different from the Government saying to the employees of Knightsfield, ‘Come in, because the Government is going to take over.’

720 And this business about the pay rise, the Government had two alternatives, Mr Speaker! The Government had two alternatives: it could either *renew* the Knightsfield contract –

725 **Hon. Chief Minister:** Where is the question?

Hon P R Caruana: There will be a question. (*Laughter*) This is as much a question as *his* point of order was a point of order! (*Laughter*)

730 Mr Speaker, the hon. Member has to understand that there is a choice. The Government could either renew the Knightsfield contract – and by the way, Mr Speaker, the Culture and Heritage Agency was not set up for the purposes of taking Knightsfield; Knightsfield was one of many activities, many already within the public sector, that were going to be roofed in common under the Culture and Heritage Agency. But the Government had about Knightsfield two choices: include them in this new project or leave them out, renegotiate the annual fee payable to Knightsfield, so that they could increase the pay of their staff, because that is what they had to do.

735 That is why, Mr Speaker, if the Government says, ‘Well, alright, I am not doing that. I am going to bring you in to the Government, that the takeover includes, in part, doing...’ Of course, this applies to the operatives: it does not apply to the senior management, who were, in effect, being placed... I do not know, at either Assistant CEO, or CEO level, the Director of the Company. We are talking about the main body of people.

740 So, Mr Speaker, and I am not... Does the hon. Member acknowledge, that my questions are not designed to disapprove of the things that he is saying to me; simply to compare what he has done with what we were doing and with what the unions used to feel before was unacceptable?

745 **Hon. Chief Minister:** Well, Mr Speaker, look, I am not going to accept or not accept what it is that he has designed the question for. It is up to him to tell us what he has designed the question for and those who wish to accept it at face value will.

But I am getting increasingly concerned, Mr Speaker, that I see the hon. Gentleman almost demob happy. It is not his usual self. He is being far too friendly in the House today and I am just wondering what it is that is around the corner! (*Laughter*)

750 Mr Speaker, on the substance of this, look, I know that the hon. Gentleman is *embarrassed* to have gone around town, just before the Election, with the cheque book, offering always more than 10% –12% here; 16% there; ‘GSD keep trusting, here is your pay rise’, because he had the cheque book before the Election.

Hon P R Caruana: Well, Mr Speaker –

755 **Hon. Chief Minister:** But I am *not embarrassed*, Mr Speaker –

Hon P R Caruana: I have a point of order now.

760 **Hon. Chief Minister:** Here we go!

Mr Speaker: I must listen to the point of order.

Hon. P R Caruana: He must listen to the point. (*Laughter*)

765 This is the *second time*, Mr Speaker, that the hon. Member has said that I went round town with a cheque book, offering, between the summer and the Election, pay rises to people above that to which they might have been entitled. I think the hon. Member at least has got to illustrate that, by giving examples of it. He cannot continue to assert something, which I am telling him is not true, and simply assert... He has to take responsibility for the accuracy of the facts that he asserts in this House.

770 **Hon. Chief Minister:** Mr Speaker, that was definitely *not* a point of order, (*Interjection by Hon. P R Caruana*) but a substantive reply to the remarks being made by me, which I am going to continue to deal with, Mr Speaker, by way of what he calls justifications.

775 It is *known to all* that in those last few months, the hon. Gentleman was offering pay rises. Mr Speaker, he would say, wouldn't he, to people who deserved those pay rises? I make absolutely no qualms about whether people deserved pay rises or did not, but the hon. Gentleman will know that there are a lot of people who he did not get around to in that magical mystery tour with the cheque book, who also feel that they deserved the 15%, the 16% and the 12%. (*Interjection by Hon. P R Caruana*)

780 But, Mr Speaker, for him to try to obtain some element of cover by, first of all, equating what he did with what we have done with GASA and the GSLA and, in particular, the what he calls 'doubling' of salaries of trainees is political desperation of the worst sort. (*Laughter by Hon. P R Caruana*)

Mr Speaker, these trainees were excluded by him and his Government, and in particular by one ex-trade union official who used to be in his Government, who had responsibility at the time when it happened for Employment – although I do not suggest for one moment it was his idea – from the minimum wage.

785 So it is not that we *doubled people's salary* – although I always respect the hon. Member's ability to articulate things in such a pejorative way that they seem to suggest that we have done something nefarious. It is not that we went around saying 'Boys, vote for us for double the salary!' It is that, in a modern European democracy, we went around saying 'Boys, it's a scandal that you have been excluded from the minimum wage in 21st century Europe, and if we are elected, you will be given the protection of the Employment Act,' which does not just deal with salary. It deals with all the other protections that are afforded to those individuals who come within the protection of the Employment Act (**Several Members:** Hear, hear!) – the rights to claim unfair dismissal, etc, etc.

790 To equate that with the attempt – which, as a politician, *chapeau!* He tried it! – to win a fifth General Election with the pay rise mechanism – I put it no higher and no lower than that – is really, Mr Speaker, comparing apples and pears. The two could not be more different.

795 But if I may say so to the hon. Gentleman, Question Time should not be a pretext for debate. He has asked for information. We have provided him with the information. If he feels aggrieved in this respect and he wants to raise the issue in this House, let him put a motion and let us have a debate – but this is Question Time.

800 **Hon. P R Caruana:** So it seems, Mr Speaker, I am not going to get the examples of the things he keeps on accusing me of doing and I take note of the fact that he has declined the opportunity to do so. I have a new supplementary for him.

805 Mr Speaker, he has just said that a Minister of my Government, whose idea he does not think it was, has excluded from the minimum wage, youth trainees etc. Can the hon. Member tell this House, when members of the Youth Training Scheme, the Scheme that was set up by the previous GSLP Government, were ever covered by the minimum wage, which was also established by the previous GSLP Government? When was it ever so? Only if it was ever so could anything that *we* had done have amounted to excluding them from it.

The suggestion that he has made, clearly in ignorance of the history of this matter, is that it was once like

810 this and we changed it and the effect of changing it was to exclude them. I now ask him to say when it was ever so, for us to have changed?

Hon. Chief Minister: Mr Speaker, I will provide that information to the hon. Gentleman. I cannot provide it on my feet but I will provide it.

815 **Hon. P R Caruana:** It is *not the case!*

Hon. Chief Minister: It is the case, Mr Speaker; he knows it is the case and I will provide it to the hon. Gentleman.

820 **Hon. P R Caruana:** No, Mr Speaker.

Mr Speaker: Order! Order! Order!

Hon. Chief Minister: And, Mr Speaker, if he wants to take the debate further –

825 **Hon. P R Caruana:** No, Mr Speaker.

Hon. Chief Minister: If he wants to take the debate further, let him *put a motion*. We have provided the information we were asked for in this question. We have had a debate –

830 **Hon. P R Caruana:** No, we haven't had a debate!

Hon. Chief Minister: – quite far from the issues that the question raised, and now, Mr Speaker, he has asked me to provide information, which I cannot provide him on my feet, but which I will provide him.

835 If he thinks that I am going to try and hide by not providing it to him now, I am quite happy to provide it to him by way of press release rather than by way of letter.

Hon. P R Caruana: Well, Mr Speaker, that may be true, but his colleague in Government that he previously referred to as the book-keeper, who was the architect of both the Youth Training Scheme and the minimum wage can tell him right now that his statement is not accurate.

840 **Hon. Chief Minister:** Well, Mr Speaker, the hon. Gentleman will forgive me for now moving that the House do now adjourn for 10 minutes.

845 I will explain to him – (*Interjection by Hon. P R Caruana*) I will explain to him why – (*Interjection by Hon. P R Caruana*) and it is completely unrelated to the remarks that he was making a moment ago.

Mr Speaker: Yes, I was aware that the Hon. the Chief Minister would want a short recess. The House will adjourn for 10 minutes, thereabouts.

The House adjourned at 4.10 p.m. and resumed its sitting at 4.25 p.m.

850

Procedural

855 **Clerk:** Mr Speaker.

Mr Speaker: If the hon. the Leader of the Opposition intends to pose further supplementaries on the last question we were working on, I think I should express the view that we seem to have drifted far away from the original question, and I would ask him to articulate the next question more in keeping with the original question.

**May Day and Workers Memorial events
Expenditure by Government and Unite**

865 **Clerk:** Question 472, the Hon. P R Caruana.

Hon. P R Caruana: Will the Chief Minister say what has been the total cost to Government from the May Day and Workers Memorial events, and how much of that represents expenditure, the cost of which has been shared with Unite; and, in respect of the latter, what proportion of those costs did the Government bear?

870 **Clerk:** Answer, the Hon. the Chief Minister.

Hon. Chief Minister (Hon. F R Picardo):: Mr Speaker, the total cost of the May Day event was £19,293, of which £14,293 was borne by the Government and £5,000 by the Gibraltar Trades Council, being half the fee of tax.

875 The total cost borne by the Government in connection with Workers Memorial Day, amounted to £1,482.

880 **Consultancy with former Chief Secretary
Length of arrangement**

Clerk: Question 473, the Hon. P R Caruana.

885 **Hon. P R Caruana:** Mr Speaker, can the Chief Minister say how long he envisages that the consultancy arrangement with former Chief Secretary, Mr E Montado, will endure?

Clerk: Answer, the Hon. the Chief Minister.

890 **Hon. Chief Minister (Hon. F R Picardo)::** Mr Speaker, the consultancy arrangement with former Chief Secretary, Mr E Montado CBE, is not for a fixed period and we have the benefit of it continuing, until such time as the Government and Mr Montado consider it beneficial for Gibraltar.

895 **Hon. P R Caruana:** Oh, I see, Mr Speaker, so what he told the House the last time, that it was for transitional arrangements purposes, is no longer the case?

Hon. Chief Minister: No, Mr Speaker, it is still the case, but those transitional arrangements may take a little bit longer than the hon. Gentleman seems to think transitional arrangements take; or is it that there is a period in which transition occurs? If he can refer me to it, then I will look at the definition that he seems to think is the appropriate one.

Hon. P R Caruana: Yes, Mr Speaker, the concept of transitioning arrangements is that you transition between one thing and another. Those are not normally open-ended arrangements.

905 If the hon. Member is saying that what, in effect, is happening is that Mr Montado has returned to No. 6 Convent Place more or less on an indefinite basis, because an arrangement that continues until one or other side no longer wants to continue it, and whilst both remain happy with it, that is true of *every* employment arrangement, to consult, that is not a transitional arrangement. So, is it a transition arrangement or is it an *indefinite* arrangement of a return to No. 6 Convent Place?

910 **Hon. Chief Minister:** Well, Mr Speaker, it would be a fairly ungenerous contract of employment, if it were a contract of employment, which is how the hon. Gentleman has just characterised it, given that it is for no remuneration, as I did clarify at the last opportunity.

915 Mr Speaker, actually I should not have taken the hon. Gentleman at his word. What I said, in answer to Question 322 of 2012, was that we had approached Mr Montado last month and asked him to provide advice and support, particularly in relation to the transitional period, but not exclusively.

So, Mr Speaker, I do not think that the analogy that the hon. Gentleman has drawn is valid in any sense,

and I am delighted to confirm to the House that Mr Montado will be available to the Government as long as the Government wishes him to be available and he wishes to be available to the Government.

920 **Hon. P R Caruana:** So therefore on an indefinite basis?

Hon. Chief Minister: Yes, Mr Speaker, because that is what 'indefinite' means, (*Interjection by Hon. P R Caruana*) but *not*, Mr Speaker, on the basis of an employment agreement, as the hon. Gentleman sought to characterise a moment ago.

925

Hon. P R Caruana: Mr Speaker, can the hon. Member say, just by way of indication, since he was appointed, how many hours a week on a typical week has he devoted to these altruistic arrangements?

930 **Hon. Chief Minister:** Well, Mr Speaker, I cannot. I would need to have notice of that question because I am not involved in seeing Mr Montado, when he is at No. 6. He is usually dealing with the current Chief Secretary, Mr Gomez, and other administrative officers, in assisting *them*.

935 But, if the hon. Gentleman wants me to seek that information and write to him to inform him or otherwise inform the general public of how many hours we, as a community, need to be grateful to Mr Montado, for him agreeing to provide, free of charge, to the benefit of the Government and the people of Gibraltar, I am delighted to do so.

Hon. P R Caruana: Well, Mr Speaker, there is quite a lot in that statement which is not universally a shared view.

940 The hon. Member appears to think that people who are paid for by one party working free for another... that that is an entirely satisfactory arrangement, regardless of whether gratitude to Mr Montado is called for or not. It is not universally believed that such arrangements are either conventional or appropriate.

945 It is not *just* a question of a bilateral relationship between the... Clearly, Mr Montado is a greatly experienced, ex-most senior civil servant in Gibraltar, with a huge amount of experience, both in domestic and external matters, and if the Gibraltar Government wants to avail itself of those services, there is nothing wrong with doing so, just as *we* did so in respect of some other civil servants that have retired at a different level from the public administration. But the Government does it directly, and either pays for it, but does not use people's time which is being paid for by somebody else...

950 Now, the last time I made similar remarks, all manner of people made public statements to the effect that there was some insinuation of impropriety. There is no insinuation of impropriety to the person who is paying Mr Montado, whilst he is advising the hon. Member; but it is not the *conventional* way of doing these things. The conventional way of doing these things is that the Government engages the consultant directly for a fee, usually, but for nothing, if the consultant wants to do it for nothing; but it is not normal for a private sector entity to deliver the time at their financial expense – which is not to suggest impropriety. There were all sorts of statements about whether I was imputing that this or that was going to happen. I said nothing of the sort, and when the allegations were made publicly, I did not think it necessary to defend myself or to clarify statements that I had not made.

955 But it is *not* the normal way that things are done; the normal way that things are done would be slightly different. But the Government... the Opposition does not see anything untoward *at all*, in the Government availing themselves, on a consultancy basis, of whatever advantage the Government may think accrues from clawing back some of the accumulated experience and skill of Mr Montado or any other retired civil servant – except that when *we* did it, the hon. Members disapproved of it, so the disapproval must have been based on the fact that the Government was paying for it, as opposed to somebody else paying for it.

960 **Hon. Chief Minister:** I think I discerned a question there, Mr Speaker.

965 It is not all manner of people, Mr Speaker, that raised issues publicly, after the comments made by the hon. Gentleman the last time that this was debated, in March, or was the subject of questions in March; it was the partners of Hassans and Mr Montado himself – not 'all manner of people'.

970 So you see, Mr Speaker, the hon. Gentleman said that there are those who believe that this is not a usual arrangement. Well, Mr Speaker, those who believe that, we think are in a very small number. He happens to be sitting opposite and they are not in Government, so we do not think that that is at all an issue to be concerned about, (*Interjection by Hon. P R Caruana*) because, Mr Speaker, unless the hon. Gentleman has got

975 up this afternoon to be an advocate for a fee to be paid to Mr Montado, then I do not discern *anything* in what he is saying that could possibly change our mind in accepting Mr Montado's generous approach to this, which is to say, 'Look, I am there to help Gibraltar. I am there to give you the time that you need, to provide the expertise that I have, in order to assist your Government', and to assist not just the political Government but the administrative Government, which is where Ernest Montado's expertise has always been.

980 So, Mr Speaker, the people who think that this is not normal are not the people sitting here, and they are not the people in 6 Convent Place, who are not politicians, who have welcomed Mr Montado, who, apart from being eminently capable and very experienced, is very well liked, and always has been very well liked by just about everybody who has ever been at No. 6 – although there are some apparently notable exceptions.

So, Mr Speaker, frankly, for the Leader of the Opposition to be making such an issue of the fact that the Government has no –

985 **Hon. P R Caruana:** Mr Speaker, would the hon. Member care to clarify, the 'notable exceptions' was intended to mean me? Is that what he meant?

Hon. Chief Minister: Well, Mr Speaker, I might be able to think of a few others.

990 **Hon. P R Caruana:** But including me? What *basis* does he have for saying that?

Mr Speaker: Order! Order!

995 **Hon. Chief Minister:** Mr Speaker, the basis that I have for saying that is that a man who is retired gives his time to the Government – the political Government and the administrative arm of Government – in order to assist by providing his expertise, his understanding and his depth of knowledge, and it is the subject of questions in this House!

1000 Well, Mr Speaker, he is right, the issue that we used to take, when he used to do the same sort of thing, involving highly paid consultants was the 'highly paid' bit because, on many occasions, we believed they were *overpaid* for the work that they were doing, and in some instances, as he will know, because I expressed it from that side of the House, I believe that the arrangements had been entered into in breach of European procurement rules.

1005 But Mr Speaker, having expertise available for the benefit of the people of Gibraltar and its Government, we think is a great thing. Therefore, I do not know what it is that is making the hon. Gentleman make me stand up to defend these eminently proper and eminently justifiable and eminently advantageous arrangements for the Government and the people of Gibraltar.

1010 **Hon. P R Caruana:** Mr Speaker, he is not the sole judge of whether things are 'eminently proper'. And, Mr Speaker, the hon. Member who so professes to believe in the importance of transparent parliamentary democracy cannot reduce to a personal attack on the subject the Leader of the Opposition's entirely *proper* probing of arrangements that the Government enters into for the conduct of the public affairs of Gibraltar.

1015 And it is *wholly improper* for him to suggest that, because I am asking him, because I want in the public domain and I want to question, query and get to the bottom of the arrangements relating to the use by the Government of an external consultant, that that somehow means, as he has felt free to say, that I am part of the 'notable exceptions' who did not like Mr Montado at No. 6 Convent Place, despite the fact that everybody else did! He has no *right* to come to that conclusion.

1020 The only conclusion that he has a right to come to is that, notwithstanding that he served my Government for many years, without once opening his mouth to suggest that he was unhappy about *anything*, he, despite having been a professional secret... civil servant – (**A Member:** Secret!) civil servant, then made very serious – and may I hasten to add, completely incorrect – allegations against me, in the newspapers, in the context of accepting the arrangements that the hon. Member thinks is conventional. *That* is the only thing that should surprise him about Mr Montado and Mr Montado's statement.

1025 I have never said anything, either when I was his Chief Minister, or since I have been Chief Minister, or the last time I raised this matter in the House, or today – I have never said anything that entitles the hon. Member or anybody else to conclude that I had anything other than respect for Mr Montado. Indeed, today I have acknowledged all of his skills and experience and expertise.

The hon. Member, as always, in his inimitable spin style, simply blusters and distorts simply to hear

1030 himself say the things that he wants to hear himself say. But he must not delude himself. It does not make them true – otherwise, let him point to any remark that I have made about Mr Montado that suggest that I did not like Mr Montado, which is, in effect, what he has said in this House, today.

1035 **Hon. Chief Minister:** Well, Mr Speaker, I am not the sole judge of what is proper, the hon. Gentleman starts by saying. But then he gets up and carries on by saying that something that I have done is improper because, of course, in the world of Peter Caruana, in the world of the hon. Gentleman, he can be the judge of what is improper when I do it, but I am not able to be the judge of what is proper or what is not improper. Mr Speaker, *Hansard* will be a laugh a minute for those that come behind us, to look at what the hon. Gentleman used to say, when he opened his mouth in this place.

1040 Mr Speaker, the hon. Gentleman said of those interventions that had been made in the local press by all manner of people – actually, the partners of Hassans and Mr Montado, one in the press statement and one in a letter – that there was nothing that he felt he needed to defend himself from, in respect of those correspondences and press statements. That he said, of course, in his earlier intervention. In this intervention, he has said that Mr Montado made very serious allegations against him, in the letter that he sent to the press.

1045 Well, look, Mr Speaker, he needs to make up his mind. Was there nothing to defend himself against or was there something which was so serious which merits comment? Mr Speaker, clearly we are not going to agree on this issue.

The position of the Government of Gibraltar –

Hon. P R Caruana: Mr Speaker, I am going to make a point of order.

1050 I am sorry, Mr Speaker, the hon. Member is *again* manifestly confusing and then distorting what I have said. I have said that I did not feel the need to defend myself from any of the allegations that were made, following our last discussion of this matter in Parliament, namely things that were said.

I have not addressed the question of what Mr Montado said about what he thought, what he had said before that, Mr Speaker – nothing to do, one thing with the other.

What I have said to this House –

1055 **Hon. Chief Minister:** Point of order.

Hon. P R Caruana: No, Mr Speaker, he has to accept what I said. (*Interjection by the Hon. Chief Minister*) Yes, Mr Speaker, he may then be as critical with what I said as he wants; but he cannot reinvent what I said, for the purposes of then being critical about his reinvention.

1060 I have said that when I last spoke in this House, I said certain things. I asked him certain questions both primarily and then in supplementary –

Mr Speaker: Well, I think I –

1065 **Hon. P R Caruana:** – and then in supplementary, and that provoked a pretty furious response in the media from, amongst others, a letter that purported to be signed... well, it was not signed by anybody; it said at the bottom, ‘The partners of Hassans’, so I suppose it was written on their behalf.

1070 The things that were said in that letter, in my view, simply did not reflect what I had said in Parliament and, therefore, I did not feel it necessary to engage with them in defence of those allegations, but I will not be intimidated from probing, in this Parliament, legitimate issues of the conduct of public affairs, either –

Mr Speaker: I think the point of order is that the Hon. the Chief Minister is distorting your line of argument. Is that correct?

1075 My understanding is that we are now in the throes of an argument where we have gone beyond the question. Statements are being made by both sides, which *invariably* portray what one side or the other intends to convey. I do not see that as a distortion.

Hon. Chief Minister: I am obliged to you, Mr Speaker, so I will continue with my answer to the supplementary.

1080 But, Mr Speaker, moments like this must make you think... I bet you are glad you are going – even if it is in September!

1085 Look, Mr Speaker, our position is very simple. We think that these arrangements are *excellent*. Not only are they proper, they are absolutely beneficial to the people of Government and administration of Gibraltar, and we think the longer that they can continue and Mr Montado can be persuaded to provide us with his expertise at no fee, we think that is actually a genuinely good thing.

1090 It can only *not* be a good thing, if the hon. Gentleman is again going where he went, which is to say, in the last exchanges, the last time in the House, ‘Because he is paid by somebody else is he that organisation’s insider?’ Mr Speaker, we do not believe that that is the issue here at all. The hon. Gentleman, in my view, in his first supplementary, has once again raised that spectre by not using those words.

1095 It may be, Mr Speaker, that this is a case of ‘you say *tomayto* and I say tomato’, and we are never going to agree, because the position of the Government of Gibraltar would be simply to record gratitude to Ernest Montado CBE for giving us of his time, both at a political and an administrative level, for the good of the people of this fair city.

1100 **Hon. P R Caruana:** Well, since there appears to be no point of order capable of prospering against the hon. Member, can I just limit myself to say two things: first of all, that whether the Speaker is exasperated, to the point where he may be glad that he is going – let us put it no stronger than that – is a matter of complete indifference to the Opposition’s right to ask the Government questions about Mr Montado or *any other* aspect of public affairs. He can glibly reduce this House to that sort of pantomime, by aside remarks of that sort, if he wants to; but it will have absolutely no impact whatsoever, whether the Speaker wishes he was sitting on the Chair or not, on the way that the Opposition conducts its business.

1105 *Secondly*, Mr Speaker, will the hon. Member accept and not therefore repeat, that I have not said – as he has just *again* wrongly imputed to me, with impunity... that I did not say that the arrangements were improper; I have said that they were *unconventional*? Even *he* must be aware of the difference between the two things.

1110 **Hon. Chief Minister:** Mr Speaker, the hon. Gentleman will allow me to welcome back the character that I have known for the past eight years and I thought, for a few hours this afternoon, we might have lost! One now knows one’s adversary again.

1115 Mr Speaker, look, it is not a question of glibly reducing anything in this House. It is that simply sometimes one needs to keep one’s feet on the ground and not build an edifice of every argument that we are having, in an occasion when we should not be having arguments, because this is not argument time; it is Question Time – but it turns *always* into argument time or into debate time.

1120 Mr Speaker, frankly, there is a big difference between ‘unconventional’ and ‘improper’, but I am not going to accept that what the hon. Gentleman was meaning was unconventional, when everything that he was saying was pointing towards improper (*Interjection by Hon. P R Caruana*) and when he was Chief Minister –

1125 **Hon. P R Caruana:** I have a point of order!

1130 **Mr Speaker:** No, no, no!

1135 **Hon. P R Caruana:** I have a point of order!

The hon. Member cannot impute to me improper motives different to the words that I have chosen to choose! He is *not allowed* to do that!

1140 **Hon. Chief Minister:** No, Mr Speaker, the rule is that I cannot impute improper motive. It is not that I cannot interpret what the hon. Gentleman is saying, otherwise, Mr Speaker, he needs to go back to *Hansard* for the past 16 years with a blue pencil and put it through most of what he has said in response to Members of the Opposition most of the time, which was to take what we had said, either in the Budget debates or in answers to a question, turn it into what he said we had said and answer that. That is *paraphrasing*, Mr Speaker – not imputing a motive.

1145 **Mr Speaker:** On the point of order, the Hon. the Leader of the Opposition asked the Chief Minister to agree something, and the Chief Minister replied he does not agree because what the implication of the question was something which was not on the face of the question. That is his means and his manner of answering the question. Surely he is entitled to answer the question. He does not have to answer the question

in a manner which is designed to elicit a particular answer (**Hon. P R Caruana:** No.) and therefore by answering the way he does, he is not out of order.

1140 **Hon. P R Caruana:** No, but what he is *not* entitled to do is to say in his answer that I have said that it was improper, when I have not said that it was improper.

Mr Speaker: No, he said that was his interpretation.

1145 **Hon. P R Caruana:** I am sorry, he is not allowed to mis-... he is not allowed to restate my words, put in inverted commas by attributing to me words that I have not used, simply because he has so interpreted the different words that I used.

And Mr Speaker, if *that* point of order will not prosper with you, I am not going to bother to make any more points of order in this House.

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Several Members: Ooh!

Hon. Chief Minister: Well, Mr Speaker, I do not know whether that is a point of order, but it sounded to me like an appeal against your decision on a point of order.

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But Mr Speaker, look, the hon. Gentleman needs just to go back. Do not go back 16 years; go back eight, in the time that I have been here as a Member of the Opposition! That was the hon. Gentleman's routine attitude, without accepting that that is what he was doing.

I *at least* have said that I acknowledged that he said 'unconventional' and that he did not say 'improper', but that everything that he said around the word 'unconventional' was designed, in my view, to suggest impropriety.

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Mr Speaker, there is nothing wrong with suggesting impropriety, because that is what he is paid for. If he believes that there are arrangements which are improper, he comes to this House, he gets up and he says either, 'Those arrangements are improper', or he couches his language, not using the word 'improper' in a way that suggests it, for those who might care to listen, at this time in the afternoon, to his meanderings.

1165

Well, Mr Speaker, frankly, the position on this question is not going to change. We continue to be exclusively of the view, on this side of the House, that these arrangements are proper and I dare say they are conventional in many respects and unconventional in others, and that has nothing to do with the value of what Gibraltar gets from Ernest Montado, with the propriety of what Gibraltar gets from Ernest Montado and from the fact that we are going to continue to take it.

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And if the hon. Gentleman believes that he can bully you, Mr Speaker, into making decisions on points of order the way he wants you to make them, by making threats like the one he is making, I am sure, Mr Speaker, (a) that he cannot, because you are made of sterner stuff than that; and (b) frankly, the Government would be delighted to see him just debate points or ask questions, rather than get up with points of order, just for the sake of hearing the bluster that comes out of that mouth.

1175

Hon. P R Caruana: Mr Speaker, if the hon. Member does not mind, I will continue to conduct the affairs of the Opposition in whichever way I think appropriate. And I am certainly not going to take lessons from him in the conduct of any of my public duties – why should I? I think our respective records speak for themselves and I think those distinctions will speak for themselves even more loudly, as people see how he is discharging his current responsibility.

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But certainly, Mr Speaker, the hon. Member feels that it is proper – and apparently, Mr Speaker, thinks it is okay, too, which therefore I suppose makes it okay – for the hon. Member to constantly be making denigrating, derogatory, aside remarks about the nature of how I go about my business. We can reduce this Parliament to that, if that he wants to do, but it is *he* who is doing that, not me. If he wants me to constantly punctuate my contributions in this House with colourful descriptions of how *he* goes about the business in this House, he knows very well that I can do that very easily, but I am not going to be dragged down into the gutter with him, by him.

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Hon. Chief Minister: Mr Speaker, I do not know where the hon. Gentleman has *been* for the past 16 years! I think he may have – (*Interjection by the Hon. P R Caruana*) he may be suffering from political amnesia, because he is doing what he is accusing us of doing – the very things that he used to do – which we

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believe we are not falling into the trap of doing.

1195 But, Mr Speaker, let us put it this way: in both the occasions, one of them happy, one of them less happy, when I have had occasion to address the issue of the Chair, on both of them I have thanked you for the way
1200 that you have dealt with issues that affected me and what I had described advisedly as some of the cruellest moments that this Parliament may have seen – *cruel*, Mr Speaker, because the hon. Gentleman, when he was the incumbent of *this* Chair, felt that it was up to him to decide the fitness and propriety of people to hold office in this House, to make comment on that publicly here and outside. So, Mr Speaker, for him to now say that he does not do that is really, Mr Speaker, for the hon. Gentleman to have characterised for all of us the Election loss as the biggest car crash in history, in political history, which has given him such political amnesia that he cannot remember how *he* used to behave when he was the incumbent of 6 Convent Place and of this Chair.

1205 **Mr Speaker:** Okay, order.

There has been no question. Each side has made a statement of its position. We must move to the next question.

1210 **New power station
Plans for building**

Clerk: Question 474, the Hon. P R Caruana.

1215 **Hon. P R Caruana:** Mr Speaker, can the Chief Minister say whether the Government envisages that it will build a new power station at Lathbury Barracks or elsewhere?

Clerk: Answer, the Hon. the Chief Minister.

1220 **Hon. Chief Minister (Hon. F R Picardo)::** Mr Speaker, the Government remains committed to the establishment of a new power station for Gibraltar, using best available technology principles. The process of analysing *all* the options available in respect of which technology is the most appropriate to secure Gibraltar's electricity needs for the coming generations and how best to integrate the use of renewable sources of energy continues and will impact on whether to retain Lathbury Barracks as the preferred site.
1225

Hon. P R Caruana: Mr Speaker, can the Hon. the Chief Minister say whether the Gibraltar Electricity Authority advised him against the building of the intended power station, with that technology?

1230 **Hon. Chief Minister:** Mr Speaker, I have met with representatives of the Gibraltar Electricity Authority, with the Government's Chief Technical Officer and with others who were involved in the decision-making process, and I can confirm to him that the decision of the Government – as a result of everything that we were told by *all* relevant parties, *including* the Gibraltar Electricity Authority representatives that we have spoken to – the decision of the Government has been not to proceed at *this stage*, with the proposal for a power station at Lathbury.

1235 I think it is clear in my answer that the possibility of a power station at Lathbury is still very much on the cards, as much as are other potential opportunities, not all of which were envisaged at the time that the hon. Gentlemen was involved in the commissioning of a report that looked at different sites because, of course, technology has changed in the interim.

1240 **Hon. P R Caruana:** Mr Speaker, my question is somewhat different to that.

I understand that the hon. Member can take advice from a number of different officials, from a number of different places, as the ones he has listed, and then the Government, taking into consideration everything that it has said, makes its decision, which does not take us very much further into discovering whether a particular official gave particular advice.

1245 The question that I am not even asking for, in relation to a particular official... I am just asking the hon. Member whether, regardless of whether they accepted it or not, it was the position of the Gibraltar Electricity

Authority – that is to say, the *advice* of the Electricity Authority – that the Government should not proceed, for whatever reason, be it for changing technology or cost or whatever, with *diesel powered* engines.

1250 **Hon. Chief Minister:** Mr Speaker, the advice was not taken on that basis, namely –

Hon. P R Caruana: No, I am asking whether it was *given*, not whether it was taken.

1255 **Hon. Chief Minister:** Well, it could not have been given, because it was not asked for on that basis – in other words, we did not go around the table saying, ‘You, the Electricity Authority or representatives thereof: do you say yea to diesel power at Lathbury?’

1260 That was neither put in respect of diesel power or Lathbury in that way, but I can tell the hon. Gentleman that the advice in respect... without disclosing what advice was given by each individual, because I am not going to be drawn across the floor of the House into disclosing what the Chief Technical Officer told me, what the Financial Secretary told me, and what the Gibraltar Electricity Authority told me, when we were having this discussion, because that would, in effect, be to give the hon. Gentleman the transcript of those discussions; but I am prepared to give him the upshot of them. The Gibraltar Electricity Authority neither advised the Government not to proceed, nor did they advise the Government to proceed with *that* technology in *that* place.

1265 **Hon. J J Netto:** Mr Speaker, perhaps if I could ask a supplementary question.

1270 Can the Chief Minister say whether the Government in any form, whether in the form of the Chief Minister, the Ministers or officials, has been in discussion or negotiations with the owners of OESCO for the purpose of them actually providing a new power station?

Hon. Chief Minister: No, Mr Speaker, we have not been in discussion with the owners of OESCO for them to provide the new power station.

1275 **Hon. P R Caruana:** Mr Speaker, can the hon. Member, then, say to me whether... I do not mind saying to him that I am probing, in relation to the content of his press release – of the Government’s press release of 21st March, if he has it in front of him.

Will the hon. Member say whether the Government would *consider* a technology for generation of electricity that involves gas?

1280 **Hon. Chief Minister:** Mr Speaker, there is a possibility that that is one of the issues that could be brought for serious discussion, but it has not yet been presented to us in a way that merits any serious discussion, not least because there would be the issue of where the gas comes from.

1285 The discussion that we have had has gone far enough for us to be able to ascertain that gas you either bring in liquid form – and in order to turn that gas from liquid form to gaseous form, again, you need to have very small plants of re-gasification, because larger plants need to be very far away from populated areas – or you need to bring the gas from the north – put it that way, which is the only viable way in which you can bring it from the north – in effect, from Spain. Then you would have the issue which we have always had, and all of us will always have, about whether we would want to rely on supply for something as essential as the generation of electricity from Spain.

1290 In that mix, Mr Speaker, you can put the fact that today Gibraltar gets, I would say, all of its diesel from across the frontier; but we could at any time if we needed to bring it in by ship. And so, Mr Speaker, before it is possible to consider carefully whether gas is something that can be considered as an alternative source of fuel for the engines that might make up a new power station, one needs to deal with all of those issues very carefully, and you cannot have a serious discussion until you know what all of those permutations are.

1295 **Hon. P R Caruana:** Mr Speaker, the reason why I ask the hon. Member this is because the sense that I got when I read this statement is that the hon. Members must have thought that we woke up one morning, when we were on that side of the House, and we said, ‘Ah, let’s build a diesel powered generating station at Lathbury Barracks’ – assuming that all of these things that they now offer as reasons for stopping and pausing...

1300 Of course, they are entitled to stop and pause, if they were on time to do so, to stop and pause and decide

1305 on whether they want to proceed or not proceed. He knows that I believe that a new power station is necessary; but he could take a different view. But on reading the statement, it suggests an assumption that all of these issues were not properly considered a part of the decision that led to the one that he subsequently put a hold on for these and other reasons.

1310 Now, Mr Speaker, will he agree with me – which is one of the reasons that *we* had on our list, for discounting gas, as well as some of the ones that he has mentioned – the fact that Gibraltar is a small place, without many open spaces that are not close to residential areas, and even if that were not so, by our configuration, transportation would have to be through such areas, and that the transportation of gas, even in its liquid form and then its re-gasification, are not the most risk-free of scientific processes, and that there are, in addition to the factors that he has mentioned, *safety* considerations to take into account as to whether gas is a medium of energy that can safely be handled in a small place like Gibraltar, not just with confined space, but with very little zoning and de-conflicting of possible conflicting activities?

1315 **Hon. Chief Minister:** Mr Speaker, I can agree with him that that is an issue that needs to be determined before you can be serious about gas – absolutely right – and it is one of the issues that, if you were going to go for gas, might make Lathbury Barracks the wrong place for gas, because to get to Lathbury Barracks, you have got to go through the town, unless you were to somehow have a mechanism for ships to be able to disgorge their liquid gas nearer to Lathbury Barracks, which I do not think is viable. So Mr Speaker, that *is* very much an issue.

1320 But there are other permutations. The hon. Gentleman will know what energy prices are like in other places, because of the price of the fossil fuels used predominantly for that purpose. He started, Mr Speaker, by talking about diesel power, and the advice that he will have got, I am sure, which is the advice that we have got and have seen – because I think the PB Power Report, as it is referred to is the one that he had available and I think contains this remark – is that diesel, still even today, is the fuel of choice for generating sets for island economies – Gibraltar is not an island, but it is an island economy in many respects. So there are many permutations, therefore, that need to be taken into consideration, if you are going to take Gibraltar out of that equation.

1330 But, Mr Speaker, at the end of the day, I am not saying that, with the information available to him two years ago, the hon. Gentleman got it wrong, because the decision was taken about two years ago and there was much of the financing discussion going on thereafter. But there is a lot that has happened in the two years, affecting technology that might be able to affect the decision-making process.

1335 There are, for example, Mr Speaker, issues relating to the type of engines that you might acquire. So, say, for example, that we were to acquire, or we were to build a power station at Lathbury with eight sets, potentially going to 12 – which was the plan that he had envisaged. In the plan that we found was the subject of the agreements when we were elected, the eight sets and the potential expansion was for four more sets of those caterpillar engines that burnt diesel. Now, the hon. Gentleman will know that there are dual fire engines and that technology has come on a very long way in the past two years, and that those can go from burning diesel to burning gas in a... literally in a flash – in a micro-second – so the fuel that is injected into the set can one moment be diesel and the next moment be gas. The difference in price between a set that only burns gas or only burns diesel and one that burns both of them on a dual fire basis is not so great, and there are other sets that burn gas and burn diesel, but they have to be adapted to go from one to another. The process of adapting them can take months – in other words, it is not, you change the fuel; it is actually you have to almost re-engineer the engine, but it is provided for in the design.

1345 Those things are also relevant because the price of diesel is only going in one direction; the price of gas, although it is going up, is more stable than the price of diesel, and those things are also in the mix.

1350 I do not know, Mr Speaker, if that is an issue that *he* considered, and he may say to me, ‘We may have looked at it, but getting gas up there anyway would be so complicated that it was not worth doing.’ There may be an argument that getting gas up there in 20 years’ time may be easier and may be economically more viable and not involve such risk, and that therefore why commit yourself to the eight engines only burning diesel or requiring retrofits in order to burn gas?

Issues like that are also necessarily on the table. I am concentrating on gas because the hon. Gentleman has raised that particular point.

1355 There are many other issues on the table, and I will agree with him, if he wants to put the points to me, that one could spend the next four years making this determination. It is like buying a TV set or a video – when do you buy them? Technology is going to be better next week, and if you read up on what it is you are

buying, you are going to find out that the Japanese are about to bring something out that may be new.

1360 So a decision has to be taken. We are fully alive to the need to reach the determination that we have to reach as soon as possible, in order to go ahead with ensuring the continuity and the security of supply, looking at both the fuel and the generating style.

1365 **Hon. P R Caruana:** Mr Speaker, I am not 100% certain, but is the hon. Member aware – I think the answer is yes – that the PB Power Report, indeed, considers and considered, and I think we did consider, the question of dual switchable fuel burning engines? I cannot remember what the reason was, but I think there is some reason given in the report, why it is not recommended. I cannot remember what it was, nor am I particularly sure, in respect of this part of the debate, so I will not press it.

1370 The next issue, Mr Speaker, is this: is the hon. Member aware – I do not say it for any reason other than to make him aware, if he is not – that the previous administration was, indeed, contrary to what it says in one of the paragraphs of this press release, was indeed planning by way of complying with the European Union Directive, which so requires, to establish renewable source energy production in Gibraltar, in addition to the power station, and that there are reports in existence to that effect, which if he has not seen, I think he ought to ask for and see, lest he should start again in respect of some of the considerations.

1375 But we have been through... I have seen reports – I cannot remember if they were internal Government reports or whether they were prepared for the Government by some external agency – consideration of wind power, wind turbines, tidal, wave, underwater current, and all these things, as a result of which we have concluded that wind turbines, given the state of technology at the moment, and its ability to be put to commercial use, given its degree of development, the only effective technology available, suitable for Gibraltar, was wind turbines, which raised lots of considerations about the location. The optimum locations were objectionable, not least to the previous chairman of GONHS, on the basis that it could interfere with bird migration.

1380 I am not raising that, simply to ask the hon. Member whether he is aware that a lot of this work has been done and must sit somewhere in the bowels, and he may be interested in asking for it.

1385 My final supplementary, Mr Speaker, is this: I note that the hon. Members have said publicly – which we welcome – that the distribution network is going on, the re-cabbling. I do not know whether he meant by that the laying of fibre-optic main ring around Gibraltar – but he then goes on to say that this is not going to be done by an external contractor as part of this contract, but rather internally –

Hon. Chief Minister: Will the hon. Member give way?

1390 **Hon. P R Caruana:** Yes.

Hon. Chief Minister: He said fibre-optic.

1395 **Hon. P R Caruana:** No, not fibre-optic; what is the word? Oh there is a word like that... Some new form of cabling, some new – I am just forgetting now the jargon that describes it.

Hon. Chief Minister: Whatever was planned.

1400 **Hon. P R Caruana:** Yes, whatever was planned, which was a significant project.

1405 Now, if the work can be done locally, fine. But I never received the advice that he says that he has received, that it could be done locally. If it can, nevertheless – notwithstanding that I never got that advice – if it is nevertheless so, is he satisfied that it can be done with the resources that the GEA have currently internally, without significantly disrupting their ability to do what they normally do, for which they always said to me they were already short-handed?

That is the question.

Hon. Chief Minister: Let me try and take those in turn.

1410 I do not recall any part of the PB Power Report that reached a conclusion about the dual fire engines, which put me on notice of anything that I should be cautious about, but I will check it again to make sure that that is not the case. It may be that we do not go for fuel dual fire engines, because there may be a reason not to do that –

Hon. P R Caruana: Dual, not fuel – dual.

1415 **Hon. Chief Minister:** Dual fire, that is what I am saying.

Hon. P R Caruana: *Dual fuel.*

1420 **Hon. Chief Minister:** Well, I think they are called dual fire, because they fire one fuel, then the other, but whatever it is, it just seemed to us, when we were looking at this – and we do not seem to have come across the hurdle that he suggests is there – that dual fire at least left certain options open, even if those options might be on the second-hand resale market if we ever came to sell sets, if our economics changed.

Whatever it is, it seemed to us that the difference in price might make that an issue worth investigating in some way.

1425 Mr Speaker, I will tell him that in terms of renewable sources of energy production, we have not come across anything, we have not been provided with any reports that suggests that the hon. Members were doing anything that would put us on the doorstep of starting to produce renewable energy in Gibraltar. I recognise from what he has said, the presentation that was made by the Institute of Engineers at the Mackintosh Hall, some time I think in the beginning of 2011 or earlier, that suggested that their view was that wind was the only possible source of renewable energy based on the technology as it was and that, even then, the best location for it would be slightly offshore on the south of Gibraltar.

1430 But Mr Speaker, we believe that there is now potential for that to have changed, but I am happy to say that I do not think that Government needs to be an *investor* in renewable energy. I do not think that is the way that our considerations are going. I do not think it is where they were going. In other words, not the Government *owning* an emerging technology because, apart from wind, they all appear to be emerging to an extent, or solar in terms of heating water for boilers.

1435 Everything else seems to be ‘emerging’. We are not looking at investing in those sorts of generating sets, but it may be that there is some way, nonetheless, to bring in renewable sources of energy, depending on how the advice that we are seeking goes.

1440 Mr Speaker, finally, in respect of the distribution network, the advice that we have got is that it is possible to do all or most of the work locally. That is not to say that the GEA itself will be doing the work *itself* on all occasions – it may have to go out to tender for other entities in Gibraltar to do parts of the works which, frankly to us, makes more sense than doing it as part of the wider contract now that we are not proceeding with the creation of the generating capacity up at Lathbury under that agreement. Because, of course, we could have said to the proposed joint venturer, ‘Don’t build us the power station, but build us the distribution grid.’ Under the European procurement process, as we understand it, that would have been a substantial change to the contract and would have required a new European procurement process; whilst if we do it in-house, and the GEA feel that they can, by doing parts themselves, and locally tendering for parts of the work where they need additional assistance, then the work will be at least progressing, whilst the other important aspect – and I think we will agree that they are both equally important – which is the generating capacity, is finalised.

1450 **Hon. P R Caruana:** Mr Speaker, can the hon. Member say whether they are giving any degree of consideration to the importation of electricity?

1455 **Hon. Chief Minister:** Mr Speaker, I do not recognise anything in the discussions that we have had in seriousness which suggests that we might be prepared to hock Gibraltar’s need for electricity to our neighbours to the north, who could not be relied on (*Interjection by Hon. P R Caruana*) to give us oxygen when we needed it, in the 1960s and 1970s.

1460 Is there a possibility of bringing in from the south? Well, Mr Speaker, all I will say is this: in relation to telephones, we do have a lot of resilience; in relation to electricity, we have never had resilience. But my view is that we must *not ever* import electricity and that we must create our own electricity – even if we have renewable sources which plug into the grid, etc. We must be self-sustaining, in terms of the production of electricity and that must always be the case.

1465 Should we, as we develop as a financial services centre, as we develop as an e-gaming hub, etc, have the capacity, in a doomsday, *Perfect Storm*-style scenario, to have resilience into our grid? Well, that is an issue that perhaps we do need to look at, but not at the expense of not having, and operating, a free-standing

independent generation of electricity capacity that is the main and daily source of our electricity.

1470 **Hon. P R Caruana:** The reason why I ask, Mr Speaker, is that I am constantly receiving reports which I just put to the hon. Member to confirm or to reject that there are parties, that if these are no more than rumours, the rumour has got to the point of putting a name to the particular parties, who are out to 'the south', as he likes to call it – I would rather call them 'Spain' and 'Morocco'; there is nothing wrong with mentioning the name of the country!

1475 There are people... there are particular corporate interests in Gibraltar, who are *actively*, supposedly as your agents, as the agents of the Gibraltar Government, exploring these possibilities in Morocco currently. I am not saying today; I am saying currently, these days, these weeks, at this general point in time.

My first supplementary on the subject was just designed to establish whether *that* is true – whether it is by way of resilience or... Certainly, I would agree with him that it would be folly to do it by way of *only* or even *principal* supply.

1480 But regardless of whether it is by [*inaudible*], therefore without necessarily suggesting that there is anything wrong with it – certainly if it is only by way of resilience, subject to cost, it may be a very good thing – but is it happening?

1485 **Hon. Chief Minister:** Mr Speaker, it is true that the Government has been approached by some who have suggested, 'What about this, would you be interested?' The Government's attitude has been, 'Look, if you brought to the Government, without any capital expenditure on the part of the Government, the possibility of buying electricity for resilience purposes – if you were in, literally, Coaling Island, for example, to suggest a landing point – with a cable, and you were ready there to connect into the Government's grid, into the Gibraltar Electricity Authority grid – for resilience purposes that is something that we would consider and look at.

1490 Unfortunately, it appears to me that the economics of doing that, for the purposes of resilience, really do not work and therefore it is something which, like everything else, is worth it. If there are people who are prepared to consider this and to put to the Government a proposal, the Government will consider it and consider it carefully because, for the Government, the resilience value of that sort of operation may be worth exploring very carefully – but only in a resilience capacity.

1495 **Hon. P R Caruana:** Well, Mr Speaker, the hon. Member has, I think, almost entirely answered the question, and that is that, throwing a cable for the importation of electricity into Gibraltar from Morocco is itself an expensive capital investment. No-one is going to make it, except against a guaranteed income stream, which means that it would not be resilience; you would have to commit to purchase a proportion – at least a proportion; how much would depend on the size of the investment – of our current electricity demand, from them. That would not be for resilience; that would be instead of the present domestic production of it.

1500 Mr Speaker, I do not say that subject to proper safeguards, that cannot be done, but it would be something pretty controversial, that would have to be very carefully considered.

1505

**Tunnel under the runway
Decision whether to proceed**

1510

Clerk: Question 475, the Hon. P R Caruana.

1515 **Hon. P R Caruana:** Mr Speaker, can the Chief Minister say *when* the Government envisages that it will be in a position to decide whether it will proceed with the tunnel under the runway?

Clerk: Answer, the Hon. the Chief Minister.

1520 **Hon. Chief Minister (Hon. F R Picardo):** Mr Speaker, as I indicated would be the case in my answer to Question 223 of 2012, the Government has now instructed that tender documents be prepared for the undertaking of the outstanding works for the road and tunnel project.

This new EU tender will be on the basis of an employer design, as opposed to the previous design and

build contract. We have taken advice on why that should be the case.

The tender process will comprise various stages, with the programme date for the completion of the tender evaluation being March 2013. Works would commence thereafter.

1525

Hon. P R Caruana: Mr Speaker, if I have understood his answer, he is suggesting that works definitely will *not* commence until March 2013, and I do not think the answer means necessarily that it will commence in March 2013. There are mobilisation periods, and all that sort of thing. As I recall, it is a two-year job. I do not know whether the works that have already been done shorten that period, by the works that have already been done but, by that reckoning, we will not have a tunnel under the runway until sometime in or after 2015.

1530

Is the hon. Member satisfied that that is quickly enough? He knows that we think it is not. He knows that we believe that we should proceed by the quickest means now to resume works, and therefore my supplementary is this: is he satisfied that that is the quickest lawful means of getting this project underway or does it reflect a form of procurement, a timetable, which may reflect the Government's lack of priority for a project, or may reflect the Government's funding priorities for other projects, or may reflect something other than it being the quickest that can be lawfully achieved?

1535

Hon. Chief Minister: Mr Speaker, the hon. Gentleman knows that there is litigation in respect of this, and I acknowledge this morning his offer of assistance. I had actually, before I heard that he was making public that offer, written to him, providing with him with a copy of the pleading, so that he could, if he observed anything in there which he felt it was worth commenting on –

1540

Hon. P R Caruana: The letter came afterwards –

1545

Hon. Chief Minister: There you are, you see!

I was working although I was away on paternity leave, so maybe there was some delay, but in any event, I acknowledge that he has offered his assistance. I have sent him, at the same time or just before or just after, the relevant papers, so that he can see from the pleading what the issues alleged against the Government are.

1550

He will know that there are many files in his office which I have had to review also, dealing with the issue here, and he will know that design was one of the issues that might be relevant in any litigation.

So if he will take it from me that this actually reflects what we are being advised is the adequate way to proceed, both in terms of completion of the civil engineering works and the litigation, then I am quite happy to talk to him, behind the Speaker's Chair, in more detail, as to what we think the issues are.

1555

Look, it may be that we have had disputes as to how, when *he* was in Government, this issue was being handled, etc, of course, and we may have those issues in the future in respect of the way that my Government is handling this issue going forward. But he should rest assured that, subject to cost, etc, we have always said, one can but agree that a longer route that goes under a runway is better than a shorter route, given the traffic problems that go over a runway. So on that there is unanimity.

1560

Mr Speaker, would they be able to deliver this tunnel more quickly if they had been re-elected on 9th December? It may be that they would not have been able to, for reasons that perhaps he was not made aware of at the time and which have come out subsequently in the correspondence and in the analysis that has been done.

1565

The site is not an active site at the moment. Some works are being required and some works will be required, but they will not be works which are involving the digging of the tunnel – again, for reasons that we can discuss outside of this public place.

1570

**Purchase of boats for RGP
Proceeding with previous Government plan**

Clerk: Question 476, the Hon. P R Caruana.

1575

Hon. P R Caruana: Mr Speaker, can the Chief Minister say whether the Government intends to proceed with the previous Government's plan to purchase bigger boats for the RGP?

Clerk: Answer, the Hon. the Chief Minister.

1580 **Hon. Chief Minister (Hon. F R Picardo):** Mr Speaker, since our election, we have agreed the purchase by the RGP of two new and additional vessels at a cost of \$789,000 or just over £½ million. These vessels should be available in Gibraltar in the next 40 days or so.

These are two fast interceptor launches – and I say that because the hon. Gentleman may recognise that description from something that was put to him just before the date of the last Election.

1585 The hon. Gentleman will know that, in his Budget reply of 2009, he said that his Government, as it then was, was:

‘certainly intending to upgrade our investment to make much more senior our assets’

1590 – as he described them – to uphold jurisdiction over our waters.

Mr Speaker, for *Hansard* geeks, that is at page 159 of the Budget *Hansard* for 2009.

But, Mr Speaker, that position did not materialise in the remaining two and a half years of the hon. Gentleman’s last Government.

1595 **Hon. P R Caruana:** Given that they were very critical of the fact that they did not materialise quickly enough for their liking, now that they are in position to *accelerate* its materialisation, do they intend to do so?

1600 **Hon. Chief Minister:** Mr Speaker, since our election, we have agreed the purchase by the RGP (*Laughter*) of two new and additional vessels at a total cost of (*Laughter and interjections*) \$789,000 or just over £½ million. (*Laughter*)

Hon. P R Caruana: The hon. Member knows full well that *those*, which are the boats that *we* agreed that the RGP *could* buy before the Election, are *not* the bigger boats to which...

No, Mr Speaker, he knows very well that when they were asking...

1605 When he quotes that passage from *Hansard*, from the Budget debate in 2009, (*Laughter*) and the subsequent two years worth of taunting that the Hon. now Deputy Chief Minister put it to, for the next two years – in the context of incidents at sea – by the way, I am not saying I recommend this course of action. But the hon. Members used the matter in the context of ‘our poor policemen are being humiliated by the Spanish Guardia Civil because they haven’t got bigger boats. You promised to buy them bigger boats, you have dragged your heels, you have not bought them and therefore our RGP policemen continue to be humiliated at sea!’

1610 Now, I never agreed with that analysis, because I was certainly not buying bigger boats so that the RGP could conduct naval warfare against Spain. If naval warfare needs to be conducted against Spain, it is the task of the Royal Navy and Her Majesty’s Government and the United Kingdom, whose duty it is to uphold the sovereignty of those waters, not the RGP’s. The RGP’s responsibility is to uphold the law within those waters, and I do not want to pre-empt a debate we may have arising from a question about the fishing agreement in that respect.

1615 But the hon. Members nevertheless thought differently. I used to think in that way then and I continue to think in the same way now from these Opposition benches.

1620 But the hon. Members taunted the previous Government with the link between the lack of bigger boats and the RGP’s ability to stand up to the *turbo* and all these other large boats, and now that they are in Government, either they have to acknowledge that they were just being mischievous in an Opposition sense, or that they are going to be true to their analysis and public statements and arm the RGP with bigger boats, thus avoiding their humiliation by the Guardia Civil, which appears to me to continue.

1625 **Hon. Chief Minister:** Well, Mr Speaker, in fact, I can tell him that the ‘taunting’ in Opposition press releases, as he puts it, only ever used his words. We never used any words other than his own. (*Interjection by Hon. P R Caruana*)

His words were in the Budget of 2009, very much what he is saying now:

1630 ‘The upholding and defence of the sovereignty of Gibraltar’s waters is the constitutional responsibility which they insisted on preserving for themselves in the new Constitution, of the United Kingdom Government. *I* do not have a Navy and *I* do not have a diplomatic service’ –

– l'État est moi –

1635 'However, the Government of Gibraltar certainly has jurisdictional competences for official acts in Gibraltar waters, and that we are certainly intending to upgrade our investments to make such more senior our assets to uphold them.'

1640 So he used that context (*Interjection by Hon. P R Caruana*) so his analysis, his statement of the bigger boats, the 'senior assets' (**Hon. P R Caruana:** Yes.) was in that context (**Hon. P R Caruana:** Yes.) and it is (*Interjection by Hon. P R Caruana*) in that context that all of the Opposition (*Interjection by Hon. P R Caruana*) press releases raised the issue.

I accept, of course, Mr Speaker –

1645 **Hon. P R Caruana:** I concede all of that.

Hon. Chief Minister: – that in a press release of 3rd May 2011, the hon. Gentleman, on behalf of the Government then, said... well, a Convent Place spokesperson; I assume it was the hon. Gentleman:

1650 'The incident also vindicates the Gibraltar Government's position that, since upholding British sovereignty is a UK/MoD responsibility, it is completely inappropriate to call for GOG to itself obtain bigger boats to place our police officers, Customs officers and port department officers in the front line of physical confrontation with armed Spanish Navy and Guardia Civil Boats.'

1655 So, Mr Speaker, in 2009, when he talked about obtaining more 'senior assets' for the RGP, he must have meant obtaining more senior assets for the police to confront those who are committing offences in our waters or confronting (*Interjection by Hon. P R Caruana*) other law enforcement agencies, but not the Spanish Navy. Right.

1660 Therefore, Mr Speaker, since our election, we have agreed the purchase by the RGP of two new and additional vessels at a total cost of \$789,000 or just over £½ million because those, Mr Speaker, we believe, from the information we have been provided by the RGP, are bigger boats of the sort necessary for the RGP to do the work that they need to do, which is exactly what, from Opposition, the Deputy Chief Minister, who I am happy to disclose publicly was always the author and architect of these statements, having been the person who elicited this statement from the hon. Gentleman in 2009 in the Budget, quoted in our press statements, and therefore we believe we are in the process already of delivering.

1665 **Hon. P R Caruana:** No, Mr. Speaker, he is *not* in the process of delivering. What *we* would have done by way of investment in larger boats, for the purposes set out in...

He knows, because he has found the brochures on my desk, when it became *his* desk (*Interjection*) Well, he knows, somebody... There has been an allusion in a Government statement – I do not know if it was by the Deputy – *somebody* has made an allusion to seeing the brochures for the boats.

1670 Mr Speaker – yes, Mr Speaker, yes, I will point it out to him on that later.

1675 Mr Speaker, the Government's... *My* view of the share-out of responsibilities and therefore of functions between the RGP on the one hand and the United Kingdom Government on the other are exactly as I set out in that Budget, in that *Hansard* that he has read, has remained so since, and continues to be the case now. It was in the context of my explaining the difference between sovereignty responsibilities and policing responsibilities that the hon. Members continued to press me to buy the bigger boats for the RGP's constitutional responsibility, not for the ones that I will say was *not* their responsibility, but the Navy's, and, frankly, simply to buy them – ribs, which are newer and faster and a few feet longer – is not what we were planning to do. We were planning to buy genuine coastguard-type vessels, in which policemen could assert their presence and, through their presence, deter much of the sort of petty interference with our jurisdiction that the absence of a more senior boat prevents them from doing safely.

1680 Certainly, we allowed them, we authorised them, to buy the speedboats, particularly after one of them was rammed and was damaged, shortly before the Elections, but that was not the investment in bigger boats that we had been alluding to and to which this question alludes. That was *in addition to* the two boats that they have, in fact, bought now.

1685 **Hon. Chief Minister:** Mr Speaker, I think we have been thrown, then, in the question, by the reference to the RGP, because I certainly do not recognise this business of brochures for boats in respect of the RGP. I recognise the request from the RGP for these fast launches, received with him, I think, verbally agreed with

1690 him in a meeting, subsequently also agreed with me and the written procurement process undertaken after we were elected.

But he now steers us in the way of 'coastguard' and that may be referring us to something else, and there is a question on the order paper about the Borders and Coastguard Agency. He has told us about buying a coastguard-style vessel for police officers to do some of their roles. I never got any indication that there was that potential acquisition on the horizon for police officers.

1695 I know that he had put it there for, potentially, the new agency to be doing that job and we will come to that in a minute, Mr Speaker. But he is not going to find us wanting, in terms of investing to ensure the safety of our RGP officers, especially if they have to face operations at sea which are increasingly (*Interjection by Hon. P R Caruana*) dangerous, either from the point of view of those who might use our waters for nefarious, illegal drug trafficking or other trafficking activities or because our RGP officers find themselves having to confront officers of another state, not necessarily state actors i.e. navy people, but paramilitaries because, unfortunately, other states do not organise themselves in exactly parallel terms to ours, and if they need more senior assets in that respect, then they will certainly be knocking on an open door, if they seek those.

1700 But in respect of the RGP's policing obligations, we have agreed to this; they are coming soon, and I think it is not just replacing the one that was damaged, because actually there is another one and they are bigger than the ones that were already here and they are faster than the ones that – (*Interjection by Hon. P R Caruana*) Those two –

1705 **Hon. P R Caruana:** We had authorised two.

1710 **Hon. Chief Minister:** – had been authorised, but the process had not progressed. We were therefore asked, when we were elected, whether we would authorise them. We authorised them. We quickly undertook the process of the procurement and I think they are not yet here because of some problem with freighting; no other reason.

1715

New Air Terminal Operating revenue and expenditure

1720 **Clerk:** Question 477, the Hon. P R Caruana.

Hon. P R Caruana: Mr Speaker, will the Chief Minister provide a breakdown of the annualised operating revenue and expenditure that it envisages for the new Air Terminal once it is open for both arrivals and departures, and the existing Air Terminal closed?

1725

Clerk: Answer, the Hon. the Chief Minister.

1730 **Hon. Chief Minister (Hon. F R Picardo):** Mr Speaker, due to commercial sensitivities and ongoing negotiations with airlines and equipment maintenance providers, a detailed breakdown of the operating revenue and expenditure of the new Air Terminal is not available.

However, Head 44 of the Draft Government of Gibraltar Estimates for 2012-13, which hon. Members will have seen, but which remain confidential until the debate on the Second Reading of the Appropriation Bill, set out the contribution of the Government of Gibraltar to the Gibraltar Air Terminal Ltd, as it is envisaged it will be in this current financial year.

1735

Can I simply point out to the hon. Gentleman, he has asked *me* specifically about this, but it is the Hon. Deputy Chief Minister's responsibility. The airport is the Hon. Deputy Chief Minister's responsibility, but I am happy –

1740 **Hon. P R Caruana:** I was doing my part as questioning the Chief Minister, being the Leader of the Opposition.

Hon. Chief Minister: Well, I am flattered, Mr Speaker.
I am grateful, but (*Interjection by Hon. P R Caruana*) ministerial responsibility is with my –

1745 **Hon P R Caruana:** You were surprisingly elected to the office and I must respect that. (*Laughter*)

Hon. Chief Minister: Well, Mr Speaker, you were remarkably elected for 16 years and we all accepted that, so...

1750 But I make the point that it is the Deputy Chief Minister who carries ministerial responsibility for the Air Terminal.

1755 **Hon. P R Caruana:** Nevertheless, would the Chief Minister say whether his answer means that there is not yet in existence a financial business case model for the operation of the new Air Terminal? So all these statements that are put out about the cost, the operating costs being excessive, are not the result of their comparison against the revenues, because if you have got the revenues and you have got the expenses, then you must necessarily have a business model, simply by putting them together in one document.

1760 **Hon. Chief Minister:** Well, Mr Speaker, if you decide to build it, you must have the business case, I assume, *before* you start building it; but the one that he appears to have had – unless he did not have one, when he made the decision to build this €80 million – I am not going to call it ‘monstrosity’, because we are getting on again, so I do not want to go there – this €80 million airport is not available to me or to the Hon. the Deputy Chief Minister, and the situation we find ourselves in at the moment is that there are a *lot of issues indeed* about the costs that will be involved in the running of the new Terminal. We have seen quite astronomical figures and we are working very hard to deal with those, in order to bring them down to some sort of manageable level.

1765 In terms of the revenue – and the hon. Gentleman will know what those streams are – they do not appear to us, on the fairest day, to come anywhere near meeting the cost of operating the Terminal. I am only saying that, because he said that you have to have the income and expenditure in front of you in any meaningful business plan. At the moment, Mr Speaker, what we are looking at is how to keep the expenditure down, and it may be, Mr Speaker, that in post-Election mode, even if he had been returned to office, he might have been doing the same thing.

1770 **Hon. P R Caruana:** Well, Mr Speaker, the hon. Member must not think that I am agreeing with him to the extent that expenditure has got to balance revenue. Anybody who thinks, including the new Deputy Chief Minister, that a community of 30,000 people with four or five flights a day at this stage can operate *any* air terminal, even the old one, at a profit or even revenue-neutral, is living in cloud-cuckoo-land. There is always going to be an element of governmental subsidy for the operation of *any* airport in this community.

1775 And I have to say, Mr Speaker, I do not want to go in a line by line question, supplementaries on the hon. Member’s press release of 25th April, but I want him to understand that the steps that the Government is now attributing to itself by way of cost reduction is exactly the process that we set up – in other words, getting the contractors that had installed the lift, the escalators, that had installed all the plant and equipment, that had installed the handling, that had installed the computer systems, to *get them* to manage, to operate and maintain – certainly to operate the maintenance of them – during a period – I think the discussions taking place envisage 12 to 18 months – not just because they were best equipped, but because there had to be a learning curve period for local people. So this is not something that the hon. Members intelligently decide to do to rescue the situation from what it was before; that is precisely what all their contracts already required them to do and was already the case.

1780 Of course, the operating cost of the new Air Terminal was always envisaged to be higher than the cost of the new Terminal. That is an investment. The hon. Members may say that they would not have made it. We say it is a perfectly affordable *increased* investment in having a higher quality Air Terminal in Gibraltar, which could be used by those of his Ministers whose business it is to generate increased economic activity, whether it be in financial services, online gaming or tourism, it is a resource that will allow them better to attract to Gibraltar the sort of enhanced quality and quantity of economic activity that Gibraltar’s future prosperity requires. It is a matter of regret to me that, even in disagreeing with the project, the hon. Members cannot acknowledge that, even though it is more expensive to operate than the old one, *obviously*, this is an investment in this community’s future, perhaps one that they would have chosen not to make, or perhaps one that they think was unnecessary to make, or in that quantum to make, or made in reduced amounts but, nevertheless, it is simply to consider the cost of operating a new facility. Without factoring the revenue that that new facility will enjoy, including its capacity for *enhanced* revenue as a result to being able to attract

1800 more services, more business and more passengers is not a meaningful way of evaluating the financial work of the operating costs – I am leaving the capital costs to one side; of the *operating* costs.

I say that, Mr Speaker, and I ask him if he would agree with me that we are just discussing the length of a piece of string, how much the subsidy is going to be, because the Government subsidises the *existing* Air Terminal. So if we subsidise – sorry.

1805 **Hon. Chief Minister:** Mr Speaker, I do not want the hon. Gentleman to think that I said anything before which suggested that I thought that the books should balance. Of course I accept, and I think I accepted earlier when this issue came up in respect of a supplementary which was not a question on the airport that, when we were talking about the commercial agreement with the MoD, I accept that there is going to be an element of subsidy in respect of the operation of the airport – of course, I accept that – but we are an island economy for
1810 more than just the generation of electricity and we need to have an airport because of our geopolitical needs. That involves a cost, part of which we defray with the Ministry of Defence in the United Kingdom but, in terms of commercial operations is a matter for our community. The question is, Mr Speaker, where does he pitch it and where do we pitch it? By looking at what revenues there would be and how much thereafter we might be prepared to invest in that.

1815 We have found ourselves with this Airport Terminal. This is the one that we now have to operate. So there is no question of us doing anything to ensure that this airport is not a success.

If this Air Terminal is made a great success by this Government, well, look, that is politics, but we just actually did not... It is not that we would not have built this Terminal and the debate between us has always been size and priority of investment. Was it right to build this Terminal – and here we are talking about the
1820 Capex – now, with this size, involving this amount of money or should we have done KGV first etc? Those were the decisions that *he* made when he was Chief Minister and, Mr Speaker, before the Election, this was almost in fruition. We now inherit that and have to run it.

I think, therefore, if the hon. Gentleman is saying to us, after the Election – or rather, after completion; the Election just happened to be there – I envisaged a period of maintenance [*inaudible*] by those who had installed them and, thereafter, the takeover of that maintenance by locally employed individuals, a local agent or part... (*Interjection by Hon. P R Caruana*) Well, exactly, or part of GATL or whatever it was, well so be it, Mr Speaker. That is very much where we are going.

I will tell him, Mr Speaker, because he is saying that this was not their idea; it was already envisaged. I will tell him, Mr Speaker, there has perhaps been the biggest try-on in history by those who have the contracts for the period that the hon. Gentleman suggested they had it, by suggesting that they wanted, obviously, to stay on and that there had been no discussion of training locals etc, etc. So we, Mr Speaker, (*Interjection*) have taken the initiative, in particular through the office of the Deputy Chief Minister, who is comfortably sitting there, whilst I field these questions, (*Laughter*) that these things should be done in the way that we have set out in our press release they should be done – which it appears to me, Mr Speaker, whether we might
1830 never ever be able to agree on *everything*, but it really is just a question of degree. We all seem to have been going in the right direction.

Hon. P R Caruana: If the hon. Member has been told that the Government was not engaged at that time with the installers of the equipment for them to do the management for a period of time of these, then he has
1840 been misinformed.

The scheme that was in place and, indeed, I think the contracts, the original procurement contracts were written *requiring* them to offer that facility if the Government required it and the scheme was – which seems to me precisely the one that they are operating – is use that for a period of... I do not remember if we are talking 12 or 18 months, as it was being done by our agent, to be followed and use that period to set up a
1845 Government-owned facilities-management agency, where the Government would bring in all the resources to do the training and, Mr Speaker, the fact that we were talking to individuals about leading the agency and about personnel, that is *exactly* the... Yes, Mr Speaker.

Hon. Chief Minister: Mr Speaker, apart from the fact that the contracts were for a period, that is for sure – a 12-month or 18-month period – but most contracts are for a period and therefore the fact that the contract is for a period does not necessarily disclose what is behind it, because somebody may want to do a contract for a year and simply keep renewing it every year and most, for example, lift maintenance contracts are all, wherever they are, for a year.

1855 I can tell him – and I have just had confirmed that my thoughts were correct by the Deputy Chief Minister – that nobody has told *us* that that was what was being envisaged by the previous administration, the creation of the agency, the people who you were talking to, and we would be delighted to receive the information, because if wheels have already been set up, reinventing them is not necessary.

1860 If I may allow myself this point of discord, Mr Speaker, perhaps it is because this was not being dealt with by the usual officials for the Government, that this information has not flowed back to us, because we are now working with chief technical officers, etc, in developing this thinking and you would have thought that, in everything else where they have thought that there are things we should have known, they have told us, which is the normal way.

1865 **Hon. P R Caruana:** Mr Speaker, but precisely the officials that he has mentioned were well aware of the discussions that the Government was having for the establishment of a facilities-management agency. We were in discussion with a particular ‘seniorish’ senior technical official – I think he is currently in the GHA – who was contemplating leading that. That actually failed in the end.

1870 That failed in the end, but this was the subject of discussions with the unions about whether we would include the garage or not the garage, whether other people would go... No, no, not the garage agency. How many people would be included in the facilities-management agency?

1875 I am not saying that the project came to fruition. It did not come to fruition because it was work in progress when the Election was called. All I am saying is that there are lots of people accessible to him today, whether on the union side or within the Government, who are aware that the scheme was to establish a local, Government-owned, facilities-management agency and that people were being spoken to... Yes.

Hon. Chief Minister: Mr Speaker, may I just ask him for a personal clarification?
For the management of the airport or more generally?

1880 **Hon. P R Caruana:** No, for the *facilities* management of the airport and other facilities that the Government has invested in.

Mr Speaker, the policy position that the Government took in those days was that, in the olden days, you used to build a building and forget about it and if you did not maintain them, well, they just dilapidated and they would eventually give them a lick of paint.

1885 A lot of new buildings now have large amounts of plant, equipment and building assistance that require maintenance. The Leisure Centre, the new Court Precincts, the new Air Terminal and the new Prison: all of these are modern buildings with a huge amount of plant, machinery and operating systems that you cannot treat like you used to treat the old buildings that Government historically...

1890 So the Government said, our policy was – and I had *assumed* that he might have been exposed to this thinking by now by officials and others – that the way to deal with this was to establish a *central* Government agency that would deal with the facilities management of all of these, which the GHA has for itself already in a particular Department, but which all these others... oh, the new Hospital has already, but which all these other new facilities that we have built did not.

1895 So the Air Terminal in respect of the *facilities* management – not the running of the Airport as a terminal, but the *facilities* management – would have been a customer of the central Government agency in common with all these other facilities. That was the project in hand, otherwise you have got to... If you just do it for the Air Terminal, you have got to say, ‘Well who is going to do it for the Leisure Centre? Who is going to do it for the Prison?’ and you cannot replicate seven or eight, as there are just not enough skills to go around for that in Gibraltar. That was the scheme and I am just surprised...

1900 I had assumed, from reading the press release, that there had been some degree of familiarisation and that the hon. Members were just chalking it up to themselves. I am astonished that no-one has pointed this out to you.

1905 **Hon. Chief Minister:** That is interesting that sometimes we are... interesting and worrying that we might actually think alike (*Laughter*) in some respects.

Hon. P R Caruana: More worrying than interesting! (*Laughter*)

Hon. Chief Minister: More worrying than interesting – absolutely!

1910 Mr Speaker, there is common thinking in that respect and perhaps, to a wider extent, because there are other things that the Government also does, not just manage buildings, which may involve the same expertise as those who manage buildings. So, Mr Speaker, that is an issue that we are looking at, but not because we were trying in this press release to suggest that we had come up with these ideas ourselves, knowing that the hon. Members opposite had done so.

1915 I am surprised, Mr Speaker, because the conventions apply but, in terms of things which are in motion, officers are allowed, and do, and have given advice of where the previous thinking was and why things are at the stage at which they are. It did not, take it from us, happen on this occasion in respect of this. (*Interjection*)

1920 **Hon. P R Caruana:** By way of information to the hon. Member, the official of the GHA in question – I am not sure if he is GHA or seconded G... I think it is GHA – actually wrote a report. There is a written report around this matter and it is true that that particular official eventually decided not to transfer to this initiative and to stay where he was, but he actually wrote a very helpful and informative report about how this central... I recommend to the hon. Member that he picks it up because it is certainly something that needs doing. We cannot just leave...

1925 We cannot just invest tens of millions of pounds in buildings without putting in place a resource for their proper maintenance and management. Not the activities within the buildings, but buildings and the systems in the buildings themselves.

1930 **New Air Terminal
Opening date**

Clerk: Question 478, the Hon. P R Caruana.

1935 **Hon. P R Caruana:** Mr Speaker, will the Chief Minister say on what date the new Air Terminal will open for departures?

Clerk: Answer, the Hon. the Chief Minister.

1940 **Hon. Chief Minister (Hon. F R Picardo)::** Mr Speaker, notwithstanding that based on information provided to the Minister for Transport by the Employer's Agent and Dragados, the Minister informed the House in the last session that it was hoped to open the new Air Terminal during this month. It has not yet been possible to set a date for the opening of the new Air Terminal for departures.

1945 A number of issues remain to be resolved at the new Air Terminal before it is possible to give an exact date for the opening of the new Air Terminal for departures.

The Government is, however, moving as soon as possible to open the new Air Terminal for departures in order to reduce the cost of operating two terminals at once.

1950 **Hon. P R Caruana:** So should I deduce from that answer, Mr Speaker, that it would be wholly unfair to level at the hon. Members opposite even the suggestion, or the suggestion of the accusation, that they are sitting on their hands and not proceeding as expeditiously as possible with the opening of the Air Terminal for political effect?

1955 **Hon. Chief Minister:** Mr Speaker, quite the opposite. We sincerely believe that the folly was to start operating one without the other and that you are not going to move back now to the old one. You need to move as quickly as possible to the new one and there is absolutely no question of any political actor involved in this side of the House doing anything other than trying to ensure that the new Airport is available and open for departure business as soon as possible. I think that is in the interests of our community. It is the interests of the administration and – he knows that he and I disagree on this issue – I think that the sooner that members of our community start to go down there, they realise how unnecessary this Airport was!

1960 So believe me, no political approach to try and prevent this from opening.

Hon. P R Caruana: Mr Speaker, as to the 'folly' part, would the hon. Member accept from me – a

1965 rhetorical question – that if a Government had emerged victorious from the polls on 8th December that was more enthusiastic about the Terminal, it would have been ready and open by now, and that the hon. Members have not gone very far out of their way to bring about a situation where it would be ready for opening? Because, certainly, the contractor had with us a commitment for a date which has long since passed, and, of course, if contractors are not pushed they take as long as they like because it minimises their costs.

1970 I am telling the hon. Member that if this party, if the Opposition, had been elected into Government, that Terminal would have already been open for at least one month.

The hon. Member suggests a different view and it remains to be seen whether the difference between our two positions on that reflects *absolutely necessary delay* caused by genuine non-completion factors, or whether it reflects the fact that the contractor has simply been allowed to finish at his leisure. The contractors, including the subcontractors for computer installations and all of that have been allowed to finish at their leisure. Our view is the latter. Obviously, I do not expect the hon. Member to agree with me, but our view is that if the Government had more enthusiastically pressed for this Terminal to have been finished, we think it would have been open by now.

1980 Can I just add a supplementary for that? I do not want to get into more trouble today. If it is not going to be ready in May, will the hon. Members then consider inviting the Earl of Wessex to inaugurate the new Terminal and perhaps even naming it the Gibraltar International Jubilee Terminal or something to that effect?

Hon. Chief Minister: I will start at the end, Mr Speaker.

1985 The programme for the visit for the Earl and Countess of Wessex has already been settled and, subject to security issues, given that the hon. Gentleman has raised the issue, that is already on their programme and a name which is relevant in some way to what they will be doing here in Gibraltar is being proposed, both in respect of the terminal and the VIP suite. I will tell the hon. Gentleman that I have given specific instructions that, of course, the order of precedence should be followed in every event to which the Earl and Countess are invited but, in particular, that in relation to the Airport, he should be... I am sure that he is one of the invitees because that Airport was not the vision of this Government; it was his vision and he should be there, Mr Speaker. So that much we can agree on.

1990 Now, Mr Speaker, would it have been ready and open for completion if the hon. Members had been returned to Government? Well, look Mr Speaker, I do not know that it would have been, because whatever level of enthusiasm the hon. Gentleman could have brought to the process of completion, by which I will translate, if you will allow me to paraphrase without the excitement that we had earlier when we were paraphrasing, namely whatever level of whipping of the contractor to finish sooner might have been the case or continued to be the case after the 9th of December, if he had been returned to office, which might not have been the case when we were returned to office, there are issues in the building. He may not be aware of some of those issues. There are issues on the roof, there are *serious* snagging issues which have been truly concerning to those of us who are receiving these reports, and there are changes proposed in respect of some of the areas of the building which may be relevant, but I do not think will delay opening for business. Those things have to be dealt with, Mr Speaker.

1995 Look, the hon. Gentleman knows that I thought that he was *excessively* enthusiastic about the way that he drove the project. The original suggestion in the placard was that this would be 'landing for business' in 2011, and unfortunately so many projects go overdue, even ones driven as enthusiastically as he drove –
 2000 (Interjection by Hon. P R Caruana) Just for arrivals business –

Hon. P R Caruana: Well, for landing – arrivals is landing. (Laughter)

2010 **Hon. Chief Minister:** Arriving for business this year, (Interjection by Hon. P R Caruana) or landing in 2011!

Hon. P R Caruana: Departures is take-off! (Laughter)

2015 **Hon. Chief Minister:** Mr Speaker, I am not going to be going down to the Airport, as the hon. Gentleman was wont to do, twice a week, to push the contractor –

Hon. P R Caruana: Three times before the end – *three* times...!

2020 **Hon. Chief Minister:** Three times, absolutely – ensuring that the tiling was done in the way that he liked
and that the staircase was changed in the way that he liked etc, etc – whatever it was that he did, Mr Speaker.
It was his prerogative. (*Interjection by Hon. P R Caruana*) He held the Chair and, given his penchant for
internal decoration, (*Interjection by Hon. P R Caruana*) he was entitled at the time to do it and he did it. We
2025 are not that sort of Government. I do not think that that has delayed the completion. I think that there are
technical issues that have delayed the completion, but the completion is necessary because operating two
terminals puts a lot of pressure on the people who are on the ground and this needs to be done as soon as
possible, and that is the message that everybody is getting from the Government. So there is no question of us
not pushing for this to be finished as soon as possible.

2030 But Mr Speaker, I will tell him, snagging *is* an issue, and better that snagging be an issue and before the
Government take the building, these issues are dealt with, than simply for the sake of taking it, we accept a
building that, in some respects, the snagging is not satisfactory on and that we wait to ensure that the
contractor deals with those points.

2035 **Hon. P R Caruana:** Mr Speaker, the hon. Members have already accepted delivery of the building.
Practical completion has taken place. ‘Snagging’ as he calls them, rightly, take place *after* the building
comes into the hands of the user and after it has been put into use. When people move into a house and the
snagging can go... unless, of course, the snagging is of a sort that is not compatible with the building being
occupied and in use.

2040 Mr Speaker, leaving to one side the question on which we clearly disagree, about whether the Government
have been enthusiastic about getting this project, or whether they have extended it, simply to make it easier
for him to reveal the ‘folly’ argument, about having opened it for arrivals only – leaving that to one side, Mr
Speaker – I have to tell him that, in favour of its opening by a member of the British royal family is the *only*
option that I will forgive him for sacking me as the opener and inaugurator of the Terminal – or has he
forgotten (*Laughter*) that he brought out a public statement telling me not to worry, that he would ensure that
I did the opening of the Terminal because it was my project?

2045 I can tell him that I am delighted – even though I have been *pushed* to one side, (*Laughter*) I would have
stood to one side with pleasure – and therefore I welcome having been pushed to one side by him, without
furthermore, in favour of the inauguration of this Terminal by the Earl of Wessex and if he will accept the
Government’s suggestion that the word ‘Jubilee’ should somehow feature in the name of the new Airport,
2050 then he will get double forgiveness from the Leader of the Opposition for my unceremonial sacking as the
inaugurator of choice.

A bell rang.

2055 **Hon. Chief Minister:** Round six!
Mr Speaker, I have not sacked him; it is that I made the offer to him in the days when I was Leader of the
Opposition and he was Chief Minister and, in those days, offers were made and no replies were to be had, just
like the letters I used to send him, to which I used to not get a reply – (*Interjection by Hon. P R Caruana*) so,
absent an acceptance, Mr Speaker, I had to fumble around to find somebody else suitable! (*Laughter*)

2060 **Hon. P R Caruana:** Your electoral promises are not to be believed!

Hon. Chief Minister: Even the ones made to you!
I had to fumble around to try and find somebody to open it and very, very, graciously, we found people
2065 who I think we can both agree are the best people –

Hon. P R Caruana: Of course, I am not going to suggest for one moment that the delay in opening is to
await the Prince’s arrival: he *could* inaugurate, even if it had already –

2070 **Hon. Chief Minister:** Absolutely, he will inaugurate it whatever the position is then, even if it is just
open, as it is today, for arrivals.

So, Mr Speaker, I am delighted, actually, that it will be possible to have the royal couple here and to do
something as important to Gibraltar as the opening of this and other venues and the laying of foundation
stones, etc... I did not want to say much more about it, but because the hon. Gentleman has raised it and –

2075 **Hon. P R Caruana:** I suggested it, not raised it.

Hon. Chief Minister: – and it is important that it be on the record that that is the case. (*Interjection by Hon. P R Caruana*)

2080 Mr Speaker, there are names in the mix. (*Interjection by Hon. P R Caruana*) There are names in the mix, which he will be privy to, once they are more public. I am quite happy to tell him – (*Interjection by Hon. P R Caruana*) I am quite happy to tell him afterwards.

But, Mr Speaker, I will say this – (*Interjection by Hon. P R Caruana and laughter*) When the...

2085 Can he go back to nasty, because I need to be able to at least get through the answer? At least when he is nasty, he listens, Mr Speaker!

I will, when we are there, Mr Speaker, make sure that the Earl and Countess of Wessex know that this is his idea of an airport and not ours, because that is the historic position, Mr Speaker.

2090 **Hon. P R Caruana:** Yes, and he's not tempted by the name 'Peter Caruana International Airport'? (*Laughter*)

Hon. Chief Minister: Mr Speaker, I think that he needs to think carefully about what the initials of that, which is what appear on the baggage tags, may look like. (*Interjection*) His middle name is Richard, isn't it? (*Laughter*)

2095 **Hon. P R Caruana:** Well, I have got... The hon. Member clearly thinks about an order – (*Laughter*) What would the order of the initials add to it? (*Laughter*) So I take it that is a no?

2100 **Hon. Chief Minister:** It is in all of our interests that it should not be!

Fishing Agreement 1999 Contravention of Gibraltar laws

2105 **Clerk:** Question 479, the Hon. P R Caruana.

2110 **Hon. P R Caruana:** Mr Speaker, will the Chief Minister say in what respect he believes that the content of the 1999 Fishing Agreement contravened the laws of Gibraltar?

Clerk: Answer, the Hon. the Chief Minister.

2115 **Hon. Chief Minister (Hon. F R Picardo):** Mr Speaker, this question seeks an opinion and, in our view, is therefore contrary to Standing Order 17(1)(vii).

The fact is that this question is also a pretext for a debate, contrary to Standing Order 16(6), although if the hon. Gentleman wants to debate this issue, I will be delighted to do so on a motion.

Nevertheless, Mr Speaker, I will answer this question by simply saying: *in every respect*, as, in our view, it was an agreement to allow Gibraltar law to be broken by certain individuals and not others.

2120 **Hon. P R Caruana:** Mr Speaker, does the hon. Member acknowledge that, far from *authorising* the breaches of the laws of Gibraltar, the Agreement specifically says that those laws for Gibraltar are valid and effective at which the fishermen acknowledged; that it is specifically said that no breach of those laws is being authorised by this Agreement; and that the essence of the Agreement is to restore the enforcement practices of those laws to what it had been since the day it was introduced by the previous GSLP Government in 1991 to the outbreak of hostilities, if I could call it that, in 1997?

2125 Therefore, to the extent that he thinks – *wrongly* in my view – that this Agreement authorises by virtue of agreeing a return to the enforcement *status quo ante*, that it cannot authorise breaches of the laws of Gibraltar any more than the previous GSLP Government had, in effect, tolerated, between 1991 and 1997, after they

2130 had *foolishly* been allowed to be persuaded by the environmental lobby in Gibraltar to introduce these laws, without regard to the implications that would come in their wake, so that when they realised what the implications were, they themselves, the introducers – that is to say, the GSLP Government in office in 1991 – took no steps whatsoever to secure, or to concern itself about the non-implementation of these laws, and that the *sole effect* of the 1999 Agreement was simply to say, ‘We will ask the Governor to ask the RGP whether they will go back to enforcing this law, as they have always enforced it from 1991 to 1996’, and that, in it, it says that there is no authorisation of the breach of the law – I will read it to him, if he shakes his head – and that... Yes, Mr Speaker:

2140 ‘The circumstances here described do not mean that any transgression of the Nature Protection Ordinance (law of Gibraltar) is permitted, and the fishermen undertake to respect the instructions of the police authorities in every case.’

which was *our* assessment, in fact, of what the situation had been before: that Gibraltar believed the laws to be valid and left enforcement to the RGP in whatever way they chose. That is what had happened between 1991 and 1997 and the Agreement merely says that ‘We will revert to whatever it was that was happening before the outbreak of war’ – in other words, we would revert to what the enforcement mechanisms had been.

2145 But, in any case, Mr Speaker, my supplementary question was not what the hon. Member interpreted – presumably the hon. Member does not assert that something is unlawful simply on the basis of *his* interpretation of the effect, unless he also thinks that there was unlawfulness going on before. The hon. Member has said repeatedly that he thinks that this Agreement *authorises* breaches of the law. I would ask him to point out what words in this Agreement he believes authorises breaches of *any* Gibraltar law.

2150 **Hon. Chief Minister:** Mr Speaker, this debate has been had in this House before. It was had at the time that the hon. Gentleman, as Chief Minister, entered into the Agreement in question and, with questioning, I think he will remember and perhaps fondly recall from Mr Gabay, who is now passed away.

2155 Mr Speaker, the Agreement is, in my view, very clear. The fact of the Agreement in itself says a lot. You see, Mr Speaker, the position, as any first year lawyer would understand it, is that there is a law in Gibraltar which proscribes certain acts in our waters, and elsewhere in Gibraltar, as it does not just deal with fish. We have many laws that proscribe many things in many areas of our community. This is perhaps the *only* Agreement that there exists about how laws are going to be enforced – certainly the only agreement that I have seen which is subscribed to by the Government of Gibraltar as to what rigour will be applied to the application and enforcement of the law.

2160 My Government has not, in the past six months, (*Interjection by Hon. P R Caruana*) subscribed to *any* agreement as to how *any* law should be enforced, neither does it purport to say to the RGP, for example, in relation to drink-driving or the purchase of drink by people under age, at any time, ‘You, RGP, are required to enforce the law today, in the same way that you have enforced it between 1996 and 2011’, because if the RGP wanted to have a crack-down on drink-driving at Christmas and people who want to drink and drive block the entrance to my office, I am certainly not going to sit down with them to agree a protocol, where I am going to ask the Governor of today, the Police Authority, to tell the Commissioner of Police that he should not police the law on drink driving with any more vigour than he does at any time during the year.

2165 This Agreement *specifically* provides that the level that the law will be applied with will be the same level of tolerance as during the period between 1991 and 1997. Well, Mr. Speaker this is an agreement, therefore, to restrict how the police enforce Gibraltar law. Between 1991 and 1997 the police, as they do in relation to every other law, decide for themselves how they enforce legislation which creates criminal offences. We, as citizens, may see somebody riding a bike without a helmet and we may think ‘what the bloody hell are the police up to, don’t they see that there is a guy riding without a helmet?’ Now, that does not mean that we are entitled to say to the Police Commissioner, ‘if they stop our son driving a moped without a helmet, how can you stop him and fine him when I saw a fellow driving without a helmet last week? I require you to enforce the law against my son with the same level of tolerance as was obviously being applied to the fellow who I saw driving across the runway without a helmet.’

2170 It is *inconceivable* Mr. Speaker – and I recognise what the hon. Gentleman is trying to do politically but, legally, it is inconceivable – *legally* that a Government should defend, as he does now, for the Government that he led, an agreement to tolerate the breaching of the law in Gibraltar, with this added danger: in the annexes there are provisions as to what happens more than 225 metres from the coast and what happens *less* than 225 metres from the coast and what level of tolerance, which is to accept, without challenging, the RGP

2185 are going to be asked by the Governor to show in respect of the enforcement of our law in those areas under the constitutional arrangements that were current in 1999.

2190 Mr. Speaker, I thought it was common ground between us in this House that Gibraltar has the territorial sea of three miles all around it except where the median lines are shorter and, therefore, the Nature Protection Act, love it or loathe it, is the law of Gibraltar to the three mile limit on the east side and to the centre of the Bay of Gibraltar on the western side and up to the international strait to the south. Now, *this* Agreement specifically sought to tell the Commissioner of Police, through the office of His Excellency, the then Governor, as a messenger, what level of application of the law there should be by the instrument of tolerance (*Interjection by Hon. P R Caruana*) in respect of the Nature Protection Act. Therefore, Mr. Speaker, I believe that this is an illegal Agreement, contrary to the rule of law, because why should we agree, *why should we agree* that certain people should be able to do certain things in certain parts of our territory which this Parliament has proscribed.

2195 If we come to the view, Mr. Speaker, as the hon. Gentleman appears to have done, given the way that he has described the Nature Protection Ordinance – then Act now – and the pejorative terms in which he described those who might have had an influence in lobbying for it, if we were to take the view that the law should be changed, as the hon. Gentleman *appears* to have done, then we have to have what it takes to come to this Parliament and change it. So be it, the person who has the majority on this side of the House can change the law because if you want to put practices in compliance of the law what you do is you change the law, you do not put police officers or others responsible for enforcement in the situation where they are told *not* to enforce the law in a particular area or in particular circumstances – and this Agreement does just that.

2200 I think it is abundantly clear that the hon. Gentleman, when he was Chief Minister, was saying, ‘Well, look chaps, you had no problems with Spanish fishermen between 1991 and 1997 so if everything goes back to what it was like -’

Hon. P R Caruana: That is not true...

2210 **Hon. Chief Minister:** ‘It is not true’ No problem. – which they complained of, at least which gave rise (*Interjection by Hon. P R Caruana*) to the dispute between 1991 and 1997, if we go back to that, you will be alright, will you?’ He appears to have got a measure of agreement for that. He does not appear to have been able to persuade them that that could be achieved by any means *other* than seeking to tie the hands of the police through the office of the then Governor through this instruction.

2215 Mr. Speaker, I think it is important that everybody who is listening to this debate should have access to the Fishing Agreement. They should see what it is and I am quite happy if the hon. Gentleman wants to publish it again, if he has not got a copy easily accessible... But I think, at the time, it was published in the press and it has been put on certain social media sites so that people can see it; it is absolutely clear, the Government of Gibraltar states that it is not its objective to apply the law. But the Government of Gibraltar does not apply the law, Mr. Speaker, it is the police that enforces the law and applies the law with greater rigour than before. Therefore, as in the period 1991 to 1997, there will be fishing through tolerance in the application of that law and not as of rights and not due to the invalidity of that law.

2220 There will be ‘fishing’, Mr. Speaker. Change the word ‘fishing’ for ‘drug-use’: there will be ‘drug-use’ through tolerance in the application of that law and not as of right and not due the invalidity of that law. Change the word ‘drug-use’ to ‘robbery’: there will be ‘robbery’ through tolerance in the application of that law and not as of right and not due to the invalidity of that law.

2225 *How* Mr. Speaker can somebody defend an agreement to tolerate *breaches* of the law? Very simple, Mr. Speaker, because the hon. Gentleman has told us, in his analysis, that he believed that the law was wrong and it should not have been done and that it would cause problems. Therefore, he did this Agreement to allow breaches of the law of Gibraltar, contrary to every principle of the rule of law.

Hon. P R Caruana: Mr. Speaker, none of what the hon. Member has just said is true.

2230 This Agreement does not authorise the breach of any law of Gibraltar. What this Agreement says is ‘Look, here is a law that has been in place in Gibraltar since 1991 and which the Royal Gibraltar Police, who are independent law enforcers constitutionally have chosen to enforce in a certain way. I did not know what that way was.

It is not true that they could fish wherever they liked. It meant that they respected the validity of the law,

2240 that they respected the authority of the RGP between 1991 and 1997 and, on all the occasions the RGP considered it between 1991 and 1997 – to spring traps to catch Spanish fishermen, and they were caught and thrown out and/or prosecuted – whatever was enforcement practice, freely without duress, without unlawful instructions through messengers that live in the Convent to the Commissioner of Police; whatever it was that they had decided as an enforcement approach to take between 1991 and 1997 we were going to *ask* the RGP – not order – *ask* the RGP, through the Governor, whether they would agree to revert to that, which is what they had chosen, and it was not that they could fish whenever they liked. It was that they were bound by the law and that if the RGP chose to enforce it against them, they could and would and did on occasions.

2245 Mr. Speaker, the hon. Member can if he wishes place the protection of fish in the same category as robbery and drugs but a more appropriate analogy, given the serious consequences of the hon. Member ventilating his first year law student interpretation of this highly complex situation, Gibraltar is about to discover, but a more proper analogy would be not murder and robbery but driving offences. There is a law that says that you won't drive down *Line Wall Road*, I don't know what it is, forty, fifty kilometres an hour? Well, Mr. Speaker, the RGP does not police that on a zero tolerance basis and therefore turns an element of blind-eyeness, because everybody knows that people speed along *Line Wall Road* every day, a zero-tolerance policing practice would mean that they would be there every day, all hours of the day catching all the infractors that they know for certain is taking place every day. But they don't enforce because this community's wider interests do not depend on a zero-tolerance enforcement of laws – and all laws have the same status – but some laws protect society to a greater extent than others and therefore the RGP rightly devote their policing resources to those laws upon compliance and policing of which the safety and security and conviviality within this society depends, and that does not include catching every speeder, and it does not include protecting fish above everything else, important as protecting fish might be.

2250 Everything in life has a relative order of importance and for him to choose to categorise the public interest in protecting fish with the public interest in preventing murder and drugs is a monument to his exaggeration of the bad reason why he has chosen to interfere with this Agreement at the cost to Gibraltar which I fear, even though they have got no right to do it and it is a sign of everything that is unacceptable, everything that the Gibraltarians find unacceptable about the Spanish Government, this has nothing to do with accepting that their reaction is justified, but there will be a reaction and, in our view, it was unnecessary, completely and utterly unnecessary.

2255 Will the hon. Member acknowledge, just as he has done a balance sheet in terms of law and order and respect for the rule of law about what he thinks, how he has chosen to interpret the legalistic effect of what the Government did in 1999 with this Agreement; will he accept the following balance sheet of some things which are also important to Gibraltar; that here was the first and only agreement in which Spanish citizens have by agreement acknowledged, genuflected to, acknowledged and accepted (*Interjection 'hear hear'*) and recognised British sovereignty of these waters manifested through the validity of our laws, the right of our Parliament to make laws in them, the right of our police force to enforce those laws which they agree to recognise and acknowledge and that by tearing this Agreement up he has forfeited that and that he will never be able to recover that.

2260 Mr. Speaker I think that this is one of the unfortunate consequences. I don't agree. I don't agree with his analysis of the reasons why he thinks that this Agreement is either bad or illegal or a violation, so he is describing the *effect* of the Agreement not the Agreement itself. The Agreement itself does not purport to authorise or permit a single act of violation against any of the laws of Gibraltar. What it *does* do. I make absolutely no apology for it and would do it again today and encourage him still to do it today, is to simply ask the RGP, not order the RGP, ask the RGP whether they would exercise their discretion to enforce the law as *they* had – not as I had told them to – as they had chosen to enforce it with the same degree of priority, the same degree of rigour, the same degree of consistency, the same degree of laxity, the same degree of strictness, whatever it was, as they had chosen to do it before the crisis arose.

2265 So it is not *my* decision as to the degree of enforcement that I was imposing. I was simply inviting them to agree to restore *their* assessment before the armada invaded – and the Guardia Civil– and everybody ratchets up, so will he accept that what this Agreement did, first of all, was not to order, but secondly whether it was to order or to ask or, indeed, whether he is willing to acknowledge there is a difference? He may say, 'Well, Chief Minister – then Chief Minister, now Leader of the Opposition – that's all very well but that's a distinction with [*inaudible*] difference.' Will he acknowledge, nevertheless, that what the RGP were being asked to do was not to adopt a *particular* enforcement method chosen by the Government of the day but simply to revert to what had been there, for *seven years*, chosen method of enforcement.

2295 **Hon. Chief Minister:** No Mr. Speaker. No, because the letter of the Agreement says something different-

Hon. P R Caruana: It does not...

2300 **The Chief Minister:** Mr Speaker, it says here:

'Both sides have discussed in depth what a return to the *status quo* means in practical terms, in terms of the nature and level of firmness of the enforcement of that particular Gibraltar law. The Gibraltar Government will ask His Excellency, the Governor, to ask the Royal Gibraltar Police to enforce the law on the basis of this understanding -'

2305 and then sets out what it is, Mr Speaker, that that understanding is:

'ANNEX

After having discussed in detail what a return to the status quo and therefore to the 1991-97 situation is, both sides understand that the law will be applied strictly in the following circumstances:

2310 AREA – WEST OF THE BAY

Distance from the coast 225 metres.

Number of fishing boats: no more than four. (In this respect the luceros are not considered boats actually fishing).

At no time can any entrance of the port be obstructed.

2315 EAST SIDE

In less than 225 metres from the beach or coast.

The circumstances here described do not mean that any transgression of the Nature Protection Ordinance is permitted, and the fishermen undertake to respect the instructions of the Gibraltar police in every case.'

2320 Well, Mr Speaker, is it not obvious? I have too much respect for him intellectually to think that he does not understand this – of course, he does – (*Interjections*) but let him just get up and say, 'It's an agreement to breach the law and I did it, because politically it was expedient.'

Mr Speaker, what happens outside those strict areas of enforcement? It is an agreement for not strict enforcement outside those areas, for tolerance – in other words, allow without challenge, outside those areas.

2325 He might say, 'Yes, but only to the extent that that was the case between 19991 and 1997.' I would accept that argument: if we were saying zero tolerance in these areas of this law, but normal policing thereafter outside it, I would accept that principle, because you see, Mr Speaker, I do not purport to tell the police zero tolerance on one, no zero tolerance on the other. It is a matter entirely for the Police, but this Agreement went further! (**A Member:** It didn't.) Through the office of the Governor, it purported to tell/ask... well, what it should be that the police should be doing, in respect of the enforcement of a particular law.

2330 Now, the hon. Gentleman may not like it, when I compare it to the law of murder or the law of robbery or the laws against the abuse of drugs. He may prefer to compare it to driving offences; but as he has acknowledged, because he wants to diminish the importance of this, all laws are the same and he takes us to the law on driving, (*Interjection by Hon. P R Caruana*) because it is, of course, easier for him to make the point in respect of the laws of driving.

2335 But, Mr Speaker, that is exactly the point to take. In a state governed by the rule of law, what is the Government doing, asking, telling or otherwise influencing the police in respect of how it should enforce the laws? The Government is more powerful than the police. It can come to the Parliament and change the law and say that the offence is no longer on the statute book and then the police have nothing to enforce. That is why we are the executive and the police are the enforcers.

2340 This Agreement transgresses that line and, Mr Speaker, that is why it was an issue that we considered important enough to put in our manifesto and the people knew that this was one of the things they would be choosing, if we became the Government.

2345 Now, Mr Speaker, I want to take some of the other points that the hon. Gentleman has made, in turn. One of them he made outside of this House, during the course of an interview with Gibraltar Broadcasting Corporation. He said, Mr Speaker, that, although he believed that the Agreement was an important thing, he would not side with Spain, of course, on these issues; but the fact is, that the only two people, aside from the mayors and the fishermen who have come to my office, I have heard in the media saying, 'Stick to the 1999 Agreement' are Sr Garcia-Margallo and Sr Peter Caruana. So there is an element of confluence between the two of them, that the 1999 Agreement should be kept to.

2350 Now, I will tell the hon. Gentleman that I do not believe he achieved anything with this Agreement by getting Spanish citizens to genuflect to our jurisdiction. I will come to why in a minute. But he will know that

2355 one of the sticking points at the time was that the Spanish central government and the Ministerio de Asuntos Exteriores would not recognise this Agreement, and he will know that they would not, because of their intellectual approach to the Gibraltar issue, in particular of the waters. Their position has historically been, under the Treaty of Utrecht, Gibraltar was not ceded with waters, and therefore Gibraltar's position under the United Nations Convention of the law of the Sea does not give it anything other than the port waters and not the three miles of sea around it.

2360 His Agreement in 1999 did not change that position and the Ministerio de Asuntos Exteriores has never recognised this Agreement – until, Mr Speaker, we have been very clear in saying that we believe this is an illegal Agreement.

2365 At least, Mr Speaker, he will recognise that we have achieved one thing: that Sr Garcia-Margallo, in a moment where I think his officials, once again, lost control of him, went on TV and recognised the Agreement, and said that we should have it. That is not a good reason for having it, but at least our attitude to it has got the Ministerio de Asuntos Exteriores to recognise the existence of this Agreement.

2370 But, Mr Speaker, why do I say that nothing was achieved, in terms of the Spanish fishermen's subscription of their signatures – although I have not seen a signed copy – acceptance of this agreement, as the hon. Gentleman says was the case? Why do I say that there is no genuflection to the jurisdiction of Gibraltar at all to be proud of? Because, Mr Speaker, the only recognition that they give, in the first sentence of the Agreement, is:

'The fishing sector of the Campo de Gibraltar'

– which is not a unincorporate person, it is not a legal body, it is disparate, it has no legal personality –

2375 'respects as fact that the Gibraltarian authorities have the right to legislate in relation to fishing as they see fit...'

2380 Right? Well, Mr Speaker, acceptance as fact of the jurisdiction of Gibraltar, of the existence of this Parliament and of our Supreme Court by Spain is around us every day, because the tanks have not rolled. They have accepted our *de facto* right to occupy this land. They have accepted our *de facto* right to legislate. They have accepted our *de facto* right in so many other respects. There is no *de jure* recognition, which is what he knows, Mr Speaker, would have been of value, so to get a few Spanish fishermen to accept what the Ministerio de Asuntos Exteriores has recognised, even when Franco was there, is no genuflection. The genuflection here, Mr Speaker, was that a few hotheads blocked the frontier on that side and, no sooner had they done so, than our then Chief Minister was ready to do an agreement that our laws should be breached.

2385 Mr Speaker, taking the example of the policing of driving at 30km an hour along Line Wall Road: whether you were booked at 31km an hour, at 50km an hour, or not booked at all at 100km an hour, is not a matter for the Government of Gibraltar – not a matter for the executive; it is a matter for the Commissioner of Police and his officers and now the highways enforcement officers, if they have powers in relation to speeding. If we believe that you should be allowed to drive at 50km an hour, it is not appropriate for me to call Eddie Yome or to call the Chairman of the Police Authority and, in those days, to call the Governor and say, 'Go on, Guv, let us speed up to 50 and don't fine us!'

2390 The appropriate thing for the Chief Minister of Gibraltar to do *in those circumstances* is to come to this House and say, 'You should be allowed to drive at 50km an hour in Line Wall Road.' That is *not* what the hon. Gentleman did.

2395 Mr Speaker, I want to address a number of other issues that arise.

2400 The hon. Gentleman has talked about the storm that may be unleashed. The hon. Gentleman did this Agreement. He entered into an agreement, under the Tripartite process, for the payment of very large amounts of money by the United Kingdom, not us, of pensions to Spanish pensioners who have worked in Gibraltar before 1969. He entered into an agreement, very early on in his tenure for the changing of the Gibraltar identity carnet as a result of pressure being put by Spain. He agreed that the stamp of the Hague Convention, used by Gibraltar notaries, should in some way change, as a result of pressure that was sometimes put by Spain; and, Mr Speaker, in the past 16 years, the hon. Gentleman will at least recognise that he faced as many challenges as any Chief Minister of Gibraltar is likely to face, from our northern neighbours.

2405 He faced queues of five or six hours on some occasions. He faced cruise liners being told that they could not come to Gibraltar, if they wanted to touch at a Spanish port. He faced challenges to our Gibraltar ID cards even then and, on all of those occasions, he faced those challenges, including royal visits by Spanish princes,

cancelled for reasons related to Gibraltar, even though he had done this Agreement.

2410 Mr Speaker, I think every Gibraltarian knows that, with Spain as our neighbour, the storm will inevitably come. I, actually, Mr Speaker, want to give Spain the benefit of the doubt – when I say Spain, I do not mean *el ciudadano de a pie*; I mean the Spanish Foreign Office and the Spanish Government – that they are actually going to wake up soon to what behaviour is expected in 21st century diplomacy and in a 21st century world, which they expect should be accorded to them around the world and which they accord to most issues that they deal with, given the nation that they are, except, of course, when they turn to this blind spot, which is Gibraltar.

2415 I do not believe, Mr Speaker, that the Government of Spain will be foolish enough to turn this into an issue of the sort that we have seen before, where, if you do not allow our people to fish, the Guardia Civil will confront the RGP, the queues will be five hours, etc because – perhaps you might not expect to hear me say this – I have a lot of respect for the people who make up the Ministerio de Asuntos Exteriores, and I believe that they will not fall back on those ways, which are the ways of the tyrant and the ways of the dictator.

2420 But if they do, Mr Speaker, in the same way that he had to face them down, *even though* he had done the Agreement that is so clearly contrary to the rule of law, *even though* he had helped them with a deal to put millions of pounds into the pockets of Spanish pensioners as a result of the Córdoba Agreement, *even though* he had agreed the change to the ID card and he had agreed the change to the Hague Convention seal, *even though* he had created, with the Spanish foreign ministry at the time and the British foreign ministry, the Tripartite process, all of those challenges came: the four-hour queue; the five-hour queue; the problem at the border; the problem with the cruise ships.

2425 So, Mr Speaker, is it that I am being told that, simply because I seek that all our laws should be respected, if I do, I am going to confront something novel, something new, a new type of storm? Well, Mr Speaker, I just do not believe that – anybody who has lived in this place, as I have, for 40 years, as he has for 55 or 56 – anybody who has lived here for any period of time can believe that the road to respect for our laws, our city, our Parliament, our people and our rights is down to genuflecting to what we are required by our Spanish neighbours to do, namely, in this case, an agreement that our laws should not be observed.

2430 I remain available to continue discussions with representatives of the Spanish fishermen and representatives of the Ayuntamientos in this area and always available to meet with the Spanish foreign minister, Mr Margallo, should he so wish, as the maximum representative of his country's diplomacy, should they wish to engage us on this or any subject. We do not seek confrontation, and a government that seeks the observance of a law that has been there for 20 years cannot seriously be told that it is seeking confrontation.

2440 **Hon. P R Caruana:** Mr Speaker, I hope the hon. Member learns as soon as possible the science of *realpolitik* because, if he does not, then he had better advise his fellow citizens to get ready to man the barricades, as once they already had to do, when the GSLP was last in office.

Mr Speaker, look, the hon. Member says that he does not expect to face any new type of new storm, and that he does not seek confrontation. Well, Mr Speaker, I like to think that I demonstrated –

2445 **Hon. Chief Minister:** Mr Speaker, I hope that those who are in the Spanish foreign office today do not behave in a way –

Hon. P R Caruana: Alright, I acknowledge that that was insensitive.

2450 Mr Speaker, I like to think that I did not run away from any fight, regardless of the consequences for Gibraltar, when there was something genuinely at stake, which was more important to Gibraltar than the consequences of standing up.

2455 But Mr Speaker, the responsible way to do those right things is to do them whether there is a basic and fundamental political or legal or economic or social interest of Gibraltar; not unnecessarily, to provoke those consequences by unnecessarily undermining an arrangement that was in place and of which there was no *fundamental* interest of Gibraltar at stake. I do not accept, therefore, that he has not sought or has sought to avoid confrontation. I think, as I have said publicly, that, in unnecessarily, for the almost sixth-form moot reasons that he has given today by way of explanation for having done so, (*Interjection by Hon. Chief Minister*) that he should have chosen – Yes he said ‘first-year law student’ and I said ‘sixth-form moot’: it is not too much difference –

2460

Hon. Chief Minister: It is decidedly time for [*inaudible*].

2465 **Hon. P R Caruana:** Mr Speaker, I believe that to have done what he has done for the reasons that he has given that he has done them is to *unnecessarily* bring about for Gibraltar whatever the consequences are, however unjustified – and in this I agree with him – the other side may be in reacting in that way.

The fact that they are unjustified in reacting in that way and that it amounts to ‘un-21st-century’ European bullying does not alter the fact that, if it happens, it is self-inflicted to the extent that it is the result –

Hon. Chief Minister: No, it is not.

2470 **Hon. P R Caruana:** – it is the result of an unnecessary – for unnecessary reason – undermining of an arrangement that was working and that was not more important to Gibraltar. Whatever the reasons he may have had for doing so were not more important to Gibraltar than avoiding the wholly bullying and unjustified reaction of a newly elected right-wing government in Spain.

2475 I say that to him genuinely and sincerely. That is my view, and he is wrong in asserting that the Spanish fishermen have not... have only recognised this Agreement *de facto* and not *de jure*. The use of the word ‘fact’ in this Agreement is not ‘fact’ as in *de facto* as opposed to *de jure*; it is:

‘The fishing sector of the Campo de Gibraltar respects as fact’

2480 – namely, *as fact*, (*Interjection by Hon. Chief Minister*) that it exists –

‘that the Gibraltar authorities have the right to legislate in relation to fishing as they see fit and therefore, as such, respect the validity of the Nature Protection [Act]’.

2485 Mr Speaker, if you respect something *de facto*, you do not respect the validity in law of the laws that the *de facto* occupier promulgates. You respect the facts but not the laws, Mr Speaker, and he is wrong – (*Interjection by Hon. Chief Minister*) and he is wrong, Mr Speaker, in saying that he cannot agree that this Agreement was just a return to the *status quo ante* enforcement because in the annexes, it purports to describe what those *status quo ante* was and that therefore we were going more than just the *status quo ante*; we were actually setting out what the method and the degree of enforcement and tolerance would be. *That*, which he so mischaracterizes – namely the content of the annexes – was the *status quo ante*. It was simply a description of the *status quo ante*: ‘this is how they used to enforce it’, and just to demonstrate that point, Mr Speaker, the 225 metres was the *status quo ante* because that was the limit of Admiralty waters and the only police that used to rush out, if they came closer than –

2495

Hon. Chief Minister: That is not true – not on the east side. I am sorry that is not true.

Hon. P R Caruana: Mr Speaker –

2500 **Hon. Chief Minister:** That is not true on the east side.

Hon. P R Caruana: Mr Speaker, it is on the *west* side.

2505 **Hon. Chief Minister:** There is no Admiralty water on the east side and there is a reference –

Hon. P R Caruana: Mr Speaker, on the east side was the – (*Interjection by Hon. Chief Minister*) Let me finish, Mr Speaker! (*Interjection by Hon. Chief Minister*) On one side, it was the MoD, with their concerns for Admiralty waters and on the other side, it was proximity to the beach. The RGP *did* used to go out and enforce incursions, when there was danger to swimmers and things of that sort.

2510

This was not a new agreement of degree of toleration; this was a description of the *status quo ante* and therefore it was not more proscriptive or more ordered or new, in terms of defining what the degree of...

Well, Mr Speaker, the hon. Member may profess to know more about it than I, on the matter, but he is wrong!

2515

Mr Speaker, I know that the UK Parliament encouraged the Gibraltar Government to change the law, for the reasons they set out in the report, *after* they had applauded the Gibraltar Government for entering into the Agreement. The Governor applauded the Government for entering into the Agreement. The RGP were entirely appreciative of the entering into the Agreement. The UK Government were entirely supportive and

2520 appreciative of the Gibraltar Government in entering the Agreement. (*Interjection by Hon. Chief Minister*) Does he really think that all of those institutions – the Parliament, the Government of the United Kingdom, the Queen’s Representative in Gibraltar then responsible for law and order and the judicial system, the RGP then *still* the constitutional independent enforcement authority – all of those people welcomed and applauded and congratulated the Gibraltar Government for entering into an agreement, which *he* says is an illegal agreement in violation of the law and improper?

2525 Mr Speaker, the hon. Member will forgive me if we do not accept that, of all the people that have opined on this matter, he should be the only one that is right and that all these other institutions, not just in Gibraltar but in the United Kingdom, were actually endorsing an act of illegality!

Mr Speaker, this is simply just not... It is just not a credible use of the circumstantial evidence at his disposal.

2530 **Hon. Chief Minister:** Where is the question?

Mr Speaker: I was allowing him to finish. I have got to –

2535 **Hon P R Caruana:** Does the hon. Member finally accept, Mr Speaker...?

I agree with one thing that he has said: that Sr Margallo must have been rapped on the knuckles by his officials for coming out, calling for the restoration of the Agreement – which is, by the way, what I *still* urge the hon. Member to do.

2540 Mr Speaker, the hon. Member will recall that there was a PP Government in Spain, at the time that we did this Agreement, and that his predecessor, as PP Foreign Secretary, Sr Matutes, said of the Agreement, that ‘it was not worth toilet paper’ or words to that effect – that he would not put it up in his bathroom or... He made some allusion to the sort of paper that one uses in bathrooms to describe this Agreement, such was their state of unhappiness about it! Well, he knows very well that if the Spanish foreign ministry is so unhappy about something, there must be something good in it for us.

2545 **Hon. Chief Minister:** The question.

2550 **Hon. P R Caruana:** The question is does he accept the possibility, Mr Speaker, that what he... (*Interjection*) Well, Mr Speaker, it is all very well to... It is clear we are now having a debate, as we were when he was giving his 25-minute exposition, and that when I start to continue to take part in the debate, (*Interjections*) it is all of a sudden glances at the Speaker –

Mr Speaker: I have not heard the question yet!

2555 **Hon. P R Caruana:** Yes, Mr Speaker, does he acknowledge that the fact that Sr Margallo and I both urge him to restore this Agreement might actually be because we both agree, whatever else we might think about the Agreement, that it enables an equilibrium with which all sides can, and have, lived, and that it is the way of avoiding unnecessary conflict between us?

2560 I just want to say one more thing and then I will sit down. Mr Speaker, I do not accept the underlying premise of his statements today and his statements publicly, recently, that the GSLP Government is not the sort of government that instructs the police as to the degree of tolerance or the degree of enforcement of laws – or does he not recall the GSLP Government in those days instructing the RGP not to enforce strictly our tobacco laws?

2565 **Several Members:** Hear, hear. (*Applause*)

Mr Speaker: Order! Order!

Before the Hon. the Chief Minister rises to reply, I have allowed, as both sides will appreciate –

2570 **Hon. P R Caruana:** I have appreciated.

Mr Speaker: – a lot of latitude in the discussion of... (*Interjections*) It was really a question of –

Hon. Chief Minister: I have not answered a question until fairly late on...

2575 **Mr Speaker:** Well, anyway, I have allowed latitude, even though the Hon. the Chief Minister invited the Hon. Leader of the Opposition to bring this debate in a motion. Having regard to the subject matter and its importance, I have allowed the parties to conduct this as a debate (*Interjection*) under Standing Order 24A, so I have allowed a lot of latitude on that.

2580 It has been a very interesting discussion. It has been conducted in a very constructive manner, without sounding patronising, but I would invite the Hon. the Chief Minister now to reply, as if he were replying to wind up a debate, so that could be the end of this discussion.

Hon. Chief Minister: I am very much obliged, Mr Speaker.

2585 I am afraid that, starting at the end, I may be about to change the tenor (**Mr Speaker:** Oh dear!) (*Laughter*) of the way that the debate has been held, because I have read all –

Hon. P R Caruana: You can change the tenor, but not the facts!

2590 **Hon. Chief Minister:** I have read *all* of the debates in this House since 1999 – in fact, they were all question-and-answer exchanges which read like debates – and the hon. Gentleman raised that point about the GSLP tolerating breaches of the law and asking police officers to turn blind eyes. I will tell you, Mr Speaker, what the then Leader of the Opposition, Joe Bossano, said to him at the time, that he did not accept his premise, Mr Speaker.

2595 His reply to that was to say, ‘Well, everybody in Gibraltar could see what was happening and they could make up their minds for themselves.’

2600 Because I am not answerable for what the GSLP did between 1988 and 1996, I am going to leave it at that, but I am going to say to him – (*Interjection by Hon. P R Caruana*) I am going to say to him, Mr Speaker, that actually everybody could see what was happening after 1999, when he did his Agreement, which he says was not an agreement for the laws of Gibraltar to be broken: namely, that there were Spanish fishing vessels in our waters, under the supervision or within the sight of Gibraltar Police vessels, breaking Gibraltar laws, as a result of the effect of the Agreement he says is not an Agreement to break Gibraltar laws.

2605 So, you know, we can take different attitudes as to which party (*Interjection by Hon. P R Caruana*) in Government has said what to the RGP. This Government is saying nothing to the RGP, other than asking them to do their jobs and they can come back to us if they have any resources issues –

Hon. P R Caruana: Well, then, change the law.

Hon. Chief Minister: – as is normal in any democracy.

2610 Well, Mr Speaker, *realpolitik* involves many things, not just the realities that are coming towards you. It is an understanding of the nuances of what government is about and what politics is about.

2615 But, Mr Speaker, underlying all that must be one cardinal rule, that everyone is equal before the law and that the executive does not promote that citizens of one nation or another should be able to disregard the law. It is, in my view, Mr Speaker, (*Interjection by Hon. P R Caruana*) and it will be, Mr Speaker, forever in *Hansard*, to his eternal discredit, to have got up in this House today, because he has nowhere left to run on this Agreement, to help – as he has done – to *help* Spain, Ministry of Foreign Affairs, to justify the actions which he says they will now unleash. (**Hon. P R Caruana:** You!)

In other words, he is saying, ‘Picardo, you have brought it upon us – (*Interjection by Hon. P R Caruana*) if it comes, you have brought it upon us.’

2620 **Hon. P R Caruana:** Absolutely right.

Hon. Chief Minister: ‘If the queues are there, it is your fault’ –

2625 **Hon. P R Caruana:** Absolutely right.

Hon. Chief Minister: So, Mr Speaker: Landaluce, Margallo and Caruana – all on the same side of this issue! (**Several Members:** *Hear, hear!*) (*Applause*) All of them calling –

Hon. P R Caruana: Absolutely right.

2630 **Hon. Chief Minister:** – all of them calling for the same thing –

Hon. P R Caruana: Absolutely right.

2635 **Hon. Chief Minister:** – all of them justifying it on the same basis –

Hon. P R Caruana: Absolutely right.

2640 **Hon. Chief Minister:** As a Member of this House, for him, Mr Speaker, to have got up today, simply for the purposes of protecting such political legacy as people may still want to ascribe to him, to have said, as he has said and now emphasised, that because the Government of Gibraltar of a new political colour and a new political complexion is not prepared to subscribe its name to an Agreement that some and not others, and in some places and in not others, and in some circumstances and in not others, our laws should be broken, well, Mr Speaker, (*Interjection by Hon. P R Caruana*) that, I think in the *realpolitik* of this, in the history of this, when his career in politics is analysed, that will be the point of the final full stop. When he got up in this House to side with the Mayor of Algeciras, with the most aggressive Minister of Foreign Affairs (*Interjection by Hon. P R Caruana*) that Spain has had in the past 30 years, against the Chief Minister of Gibraltar – *against* the Chief Minister of Gibraltar, Mr Speaker, on this issue, which as he said, is not an important thing! This is *fish!* With a bigger, important issue, economically or legally, I would have been there fighting like a lion, as I have on other issues.

2650 Well, Mr Speaker, that is such a misnomer. That is such an attempt to pull the wool over the eyes of our citizenry that it must be answered, because this is *the* most important issue, (**A Member:** Hear, hear.) – whether it is the Nature Protection Act or whether it is (*Interjections*) any other piece of our law, how can there be *seriously* an Agreement that *some* be allowed to break our law in some circumstances, but not others, and how can that not be important and how can that not go to the root of the Rule of Law.

2655 I say this, Mr Speaker, confident that whether they liked it in Parliament, they liked it in the Foreign Office, they liked it anywhere else, and they liked it anywhere except in Madrid, I know, Mr Speaker, as *he* knows, my analysis is the correct one, and the analysis of my Government is the correct one. (*Interjection by Hon. P R Caruana*)

2660 Mr Speaker, it is not that Mr Matutes was so unhappy with the Agreement that he felt it was toilet paper and that therefore if the Spaniards are unhappy with it, it must be good for us. No, Mr Speaker, he – I have too much intellectual respect for him – knows that they were not unhappy with it; it is that it does not fit in, in the lexicon of the analysis that they have consistently done, based on Utrecht: ‘You have no waters, you cannot do an agreement. Whether one of my citizens *de facto* recognises it or not, I as the party responsible in international law for the state do not recognise it and therefore I consider it toilet paper.’ It is not that they were unhappy! How could they be unhappy? Their citizens, above ours, were going to be allowed to break the law of Gibraltar, so that is a ridiculous suggestion to pray in aid.

2670 Mr Speaker, he does not agree that I have tried to avoid confrontation. Mr Speaker, that is another agreement between him and those of our detractors (*Laughter by Hon. P R Caruana*) in Spain. Is he, Mr Speaker, going to end his political career by surprising me in New York in June, when I thought he did not want to go to the Committee of 24, but actually to deliver the speech for the Kingdom of Spain, rather than the speech of the Leader of the Opposition of Gibraltar? (*Laughter*) Is it going to come to that? Because to have stood here...

2675 He has said *nothing* which Sr Margallo has not said and which Sr Landaluce has not said (**A Member:** Hear, hear.) What he has unleashed today, Mr Speaker, in this House, in this debate, if I may call it that, is actually quite unprecedented.

2680 Mr Speaker, the analysis that he has made of what *de facto* means is – again, I am very sorry to say, because I know that he knows this, Mr Speaker, but he is just saying it because he has to – absolutely and completely incorrect in law. Moreover, the analysis that he does now, knowing the truth as I know he knows it, about the 225 metres, is equally ridiculous. He knows, Mr Speaker, because he said it on one of the question-and-answer-session-cum-debates, that the limit for this type of activity in Spain is 220 metres! He said, ‘and I added another five so it wasn’t identical to Spanish law’!

So Mr Speaker, *everything* we have heard today from the hon. Gentleman is designed only for one

2685 purpose: a final grapple, a final attempt – ‘It doesn’t matter, Gibraltar, that I did an Agreement contrary to the rule of law to ignore the laws of Gibraltar. Keep listening to me saying the opposite. You’ve always believed me, when I have said one thing and done another. Give me, please, one more chance, one more breath – can I survive a moment longer?’

The fact, Mr Speaker, is that he has done his ego a great service and Gibraltar a great disservice.

2690

**Environmental zones in Overseas Territories
UK intention to designation**

2695 **Clerk:** Question 480, the Hon. P R Caruana.

Hon. P R Caruana: Mr Speaker, you do not need to have the last word to win an argument. This is the mistake that he makes. You do not have to speak last.

2700 **Hon. Chief Minister:** He used to have the last word before and that is why he thought he used to win the argument.

Hon. P R Caruana: Can the Chief Minister – ?
Mr Speaker the last word on this subject, regrettably for Gibraltar, has not been uttered. (*Interjections*)

2705 **Mr Speaker:** Order! Question 480.

Hon. P R Caruana: Can the Chief Minister say whether the United Kingdom government has raised with him its intention to designate environmental zones in Overseas Territories?

2710 **Clerk:** Answer, the Hon. the Chief Minister.

Hon. Chief Minister (Hon. F R Picardo): Mr Speaker, the issue has not been raised with us. In fact, we have raised it with the United Kingdom, based on the *Sunday Times* article that alerted us to the issue – I do not know whether he has had an opportunity to review it.

2715 I would say, Mr Speaker, that this raises a lot of constitutional issues.

2720 **Hon. P R Caruana:** Mr Speaker, I agree that it raises a lot of constitutional issues. There was a time that the United Kingdom government tried to add ‘environment’ to the list of things that it thought belonged to *it*, so external affairs, defence, emergency management and the environment. It was clear as daylight to everybody that the Overseas Territories Consultative Council had, in effect, become a vehicle for doing that, which is one of the reasons – not the only reason – why the Gibraltar Government declined to carry on going to that forum. It was not a forum, as we were concerned, in which the Government of the United Kingdom could, by creep, help itself to subject matter jurisdiction.

2725 Mr Speaker, our Constitution says... and remember, as I am sure he will, that our Constitution is not law of Gibraltar; it is law of the United Kingdom. It is a legislative Act of and in the United Kingdom legislative process and, therefore, it *binds* the United Kingdom Government as much as it binds the citizens and institutions of Gibraltar; and that, in that, it reserves, not to the United Kingdom, certain... to the Governor who represents the Crown, the Queen.

2730 **Hon. Chief Minister:** The Queen in Gibraltar.

Hon. P R Caruana: Absolutely, Mr Speaker.

2735 And does he further accept that what is not reserved to the United Kingdom in that Constitution is not available to them by way of...? In other words, our Constitution does not say that matters are the preserve of Gibraltar Ministers unless UK Ministers decide that they want to exercise them instead.

They had no legal *vires* under United Kingdom law to do this, Mr Speaker, and therefore, will he agree with me – as I think he will – my interpretation of what of he has just said: that it would not be admissible for

2740 the United Kingdom Government to usurp *any* aspect of the statutory...? The United Kingdom Parliament may be in a slightly different legalistic position, but the United Kingdom executive, and certainly UK Ministers, may not usurp environmental competence in Gibraltar, unless it be by means of a legal instrument that overrides the Gibraltar Constitution Order.

Hon. Chief Minister: Absolutely, Mr Speaker.

2745 Now, I think it is fair to say that this article does not talk about Gibraltar; it talks about other islands. But it must be clear, Mr Speaker, to Ministers that, when they are talking about Overseas Territories and issues like this, they can never talk for Gibraltar – unless, of course, Mr Speaker, there happens to be an agreement that we might want to do something with them on a particular issue.

2750 There is absolutely no question whatsoever of a UK Minister having the right or authority to say anything about Gibraltar's environmental protection, let alone that they might be thinking of creating something around Gibraltar.

2755 Mr Speaker, there are, as the hon. Gentleman knows, at a European Union level, issues relating to the environmental protection of the seas around Gibraltar, which are the subject of the famous legal case; but there is no question, Mr Speaker, of Mr Letwin, who is the mentioned Minister who is actually in Downing Street, as I understand it, being entitled to make any such remarks about Gibraltar.

I think, Mr Speaker, there was a lot here of journalism in this article (*Interjection*) and very little directly attributable to a UK Minister which one can actually take issue with, but if there were to be an idea, somewhere, that from Downing Street we could be told which areas of our territory we are to designate in one particular way or another, for constitutional reasons, Mr Speaker, they would have something else coming.

2760

Correspondence between UK Foreign and Commonwealth Office and Spanish Foreign Ministers

2765 **Clerk:** Question 481, the Hon. P R Caruana.

2770 **Hon. P R Caruana:** Mr Speaker, can the Chief Minister say whether the Foreign and Commonwealth Office of the United Kingdom has provided him with a copy of the long letter which Sr Margallo has recently said he sent in response to Mr Straw's final letter to Sr Moratinos and is the Chief Minister aware whether the Foreign Office has replied to that letter?

Clerk: Answer, the Hon. the Chief Minister.

2775 **Hon. Chief Minister (Hon. F R Picardo):** Mr Speaker, I can confirm that I am aware of the content of the letter which Sr Margallo sent to the Foreign Secretary upon his appointment and I am also fully aware of the content and terms of the reply sent to him by the Foreign and Commonwealth Office.

2780 **Hon. P R Caruana:** Just for the record, Mr Speaker, will he say that he has chosen the words 'aware of the content' ... he has copies of the letters? Yes. Can he say yes for *Hansard*?

Hon. Chief Minister: Yes.

Mr Speaker: Yes, *Hansard* would like to know! (*Laughter*)

2785

Spain's renunciation of Trilateral Forum Foreign and Commonwealth Office reaction

2790 **Clerk:** Question 482, the Hon. P R Caruana.

Hon. P R Caruana: And I hope that he was sent them at the time and not just when he told the Convent

that I had asked this question. Well done, as it should be – as it should be so, Mr Speaker.

2795 Mr Speaker, can the Chief Minister say whether he has received the *express* assurance of the Foreign and Commonwealth Office that it has not expressed to Spain any degree of contentment, acceptance of, or acquiescence in, Spain's unilateral renunciation of the Trilateral Forum?

Clerk: Answer, the Hon. the Chief Minister.

2800 **Hon. Chief Minister (Hon. F R Picardo):** Absolutely, Mr Speaker, and I will say this: as I assume was the case when he was in No. 6 Convent Place, the content of the letter that was sent in reply to Sr Margallo's was *fully* consulted on with me, and I am very content with the language, as I am sure he would be, insofar as it relates to the issue of the Trilateral Forum.

2805 He will have seen that the Government issued a press release when Mr Margallo said something suggesting that the letter he had received said something different to that which we knew it said, which also included reference to what the United Kingdom position was, and that that was, if there was anybody renouncing the Trilateral Process, it was the present Madrid Government – because it is not even the Socialist Party that was in Government when he and Mr Miliband were involved in creating that process – and that the United Kingdom *and* Gibraltar remain *equally* available to progress the Trilateral Forum.

2810 **Hon. P R Caruana:** Mr Speaker, I did not ask the question because I doubted that that would be the UK's position, which I am very happy to see has not changed, but rather to give us an opportunity to place on the public record a response to Sr Margallo, at least as he is *reported* as having said in the press – it may be an inaccurate report – that actually the reply that he had received from the UK was very satisfactory or words to that effect. He may not have used the word 'satisfactory' – 'a good reply' or something like that.

2815 Let us make it clear that that does *not* mean that the UK gave him *any* comfort whatsoever on his renunciation of the Trilateral Forum.

2820 **Hon. Chief Minister:** Absolutely, Mr Speaker, I am delighted to have that on the record and that what was said in the press release, which I think that the hon. Gentleman would agree with us is the right approach, not just from Gibraltar but also from the United Kingdom, is what was said in the letter, which expressed strong commitment to the Forum and to its continuation.

2825

**Borders and Coastguard Agency
Government intentions for Coastguard Agency role**

2830 **Clerk:** Question 483, the Hon. P R Caruana.

Hon. P R Caruana: Mr Speaker, can the Chief Minister say whether the Government intends to proceed with the Coastguard Agency role of the Borders and Coastguard Agency?

2835 **Clerk:** Answer, the Hon. the Chief Minister.

Hon. Chief Minister (Hon. F R Picardo): Mr Speaker, the Government will make an announcement in respect of this matter in due course.

2840 **Hon. P R Caruana:** So, the answer is that he cannot now say; or if he can, that he will not now say.

Hon. Chief Minister: It is one of those two.

Hon. P R Caruana: It is one of those two – probably a bit of both.

2845 Well, Mr Speaker, can I just say to the hon. Member that it would be my hope that he does. Will he just accept from me, so that I know that he is aware of it, the reason why the previous Government added the 'Coastguard' bit? That is that it is a means of creating an umbrella organisation in which all of Gibraltar's waterborne assets can be pooled together, and after each doing their own role, for Department people,

2850 manning the boats in a seafaring sense, RGP officers and Customs officers and Port Department officials in respect of the law enforcement, because if we buy bigger boats – *if* we buy bigger boats! – the RGP can man them from a law enforcement point of view, but cannot necessarily man them from the marine point of view, from the port. This is a way of getting all the resources together and making them more credible and senior, rather than having four or five agencies floating around.

2855 So that was the reason. It seemed popular at the time. We would have done it, if we had proceeded. Certainly, it is not universally liked outside of our shores, this initiative, but I think it is a good way of marshalling and harnessing and enhancing the presence role of all our various waterborne assets, some of which now are difficult to deploy, in support of this function.

2860 **Hon. Chief Minister:** I am grateful for that indication. I think the hon. Gentleman said as much in the debate on the Agency, when he brought the Bill. (*Interjection by Hon. P R Caruana*) But I am grateful for that.

2865 I am going to resist saying that, of course, now the RGP are free to enforce the Nature Protection Act, there are things that they could do with the bigger boats, even if we do not go ahead with the Coastguard parts of it, but anyway... (*Interjection by Hon. P R Caruana*)

**North Mole sullage plant
Government intention to allow reopening**

2870 **Clerk:** Question 484, the Hon. P R Caruana.

Hon. P R Caruana: Mr Speaker, can the Chief Minister say whether the Government intends to allow the sullage plant to reopen on the North Mole?

2875 **Clerk:** Answer, the Hon. the Chief Minister.

2880 **Hon. Chief Minister (Hon. F R Picardo):** Mr Speaker, as has recently been announced, Government is conducting jointly with the owners and operators of the plant a thorough assessment of the facility, which will determine whether or not it would be viable to resume operations at the Western Arm. Until this assessment is complete, Government will not be in a position to state whether any such operation can continue and, if so, under what conditions and restrictions they would be allowed to continue.

2885 Mr Speaker, I have said to him before that it is... I have not used the example before, but it is almost like climbing Everest without oxygen, the hurdles that the operators would have to surmount in order to satisfy us, given the present configuration of the Western Arm and the proximity of residential areas, in any event, that those operations should once again be allowed.

2890 **Hon. P R Caruana:** In any assessment – I do not want to add to the lack of oxygen near the peak of the summit – but amongst the issues, Mr Speaker, I have no doubt that the Minister for Tourism will be urging upon him is the reaction to any such step by the cruising industry, who have supported us – Gibraltar; I do not mean ‘us’ – who have supported Gibraltar and who must not be put offside Gibraltar by doing anything with which they are not content.

2895 It is up to the Government, therefore, whether it allows them to reopen there, whether it ends sullage operations in Gibraltar altogether, or whether it says, ‘You can’t open there, but here are facilities elsewhere,’ so that sullage facilities... That may be an acceptable way forward.

2895 But I am content, because this is not an anti-sullage-plant stance that the Opposition takes now, or that we took in Government, but rather to ensure that the horizontal damage to other macro-economic interests of Gibraltar are kept well to the forefront of any consideration of whether to allow it to re-establish *there* or not.

2900 **Hon. Chief Minister:** Mr Speaker, the hon. Gentleman started by saying that he did not want to take oxygen away from those who might be near the summit. I do not even want us to go near that analogy, because I would say that, if I had to assess this, there is nobody even on the lower slopes of Mount Everest, because there would have to be so much persuasion of the Government to allow this activity to occur again,

given the present configuration of the Western Arm, that I do not think they have even taken off in the process.

2905

But, look, it is right that we should do an analysis of what is happening in the activity, but that analysis, in any event, would be *ad referenda* the cruise companies, because of the importance of that. (*Interjection by Hon. P R Caruana*) That has been made very clear to the people, who we have said, 'Let's stop the judicial review, let's do this exercise', but even then, it is *ad referenda* the cruise companies and the insurance companies, which are more or less assessing the same level of acceptable risk, which I think may lead to this never being able to be done in that place, given the present configuration of the Western Arm.

2910

**Gibraltar Identity and Civilian Registration Cards
Erroneous charges for renewal/changes**

2915

Clerk: Question 485, the Hon. P R Caruana.

2920

Hon. P R Caruana: Mr Speaker, can the Chief Minister explain the nature and circumstances of the error that led to people being charged for renewal of, and changes to, Gibraltar Identity and Civilian Registration Cards – and which, I might have added in the question, they then reversed?

Clerk: Answer, the Hon. the Chief Minister.

2925

Hon. Chief Minister (Hon. F R Picardo): Well, Mr Speaker, whilst revising the internal process for issuing Identity Cards and Civilian Registration Cards, with a view to maximising efficiency and cost-effectiveness, the Civil Status and Registration Officer decided to issue all cards with a validity of ten years and five years respectively, including those requiring renewal and the change of particulars, and charge the statutory fee of £5 to everyone with effect from 2nd April 2012. This was erroneously implemented without reference to the Government who, upon hearing of this, immediately issued instructions to rectify the situation.

2930

On 10th April 2012, the practice was discontinued and the Civil Status and Registration Office issued a public apology. Those concerned were contacted in order to refund the monies.

2935

Hon. P R Caruana: Well, now, you see, Mr Speaker, that is what happens when you decide to let the Civil Service run the country, as a manifesto commitment!

2940

Hon. Chief Minister: Well, Mr Speaker, it is right that they should run the administration, (*Interjection by Hon. P R Caruana*) but in the context of what it is that the administration is – in other words, give effect to the policy of the Government.

In relation to charging, I think he will agree with me, that charging citizens for things is not an issue of administration; it is actually a political issue, which requires a decision to be taken by this House because we are going to spend a long time debating the Book, (*Interjection by Hon. P R Caruana*) and for good reason.

2945

Procedural

2950

Hon. Chief Minister: Mr Speaker I now move that the House adjourn to Friday, 18th May at 3.30 p.m.

Mr Speaker: I now propose the question, which is that this House do now adjourn to Friday, 18th May 2012 at 3.30 p.m.

2955

I now put the question, which is that this House do now adjourn to Friday, 18th May 2012 at 3.30 p.m.

Those in favour; (**Members:** Aye.) those against. Passed.

This House will now adjourn until Friday, 18th May 2012 at 3.30 p.m.

The House adjourned at 7.20 p.m.