



PROCEEDINGS OF THE GIBRALTAR PARLIAMENT

MORNING SESSION: 9.00 a.m. – 1.05 p.m.

Gibraltar, Wednesday, 15th February 2012

The Gibraltar Parliament

The Parliament met at 9.00 a.m.

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

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

PRAYER

Mr Speaker

Order of the Day

Clerk: Meeting of Parliament, 15th February 2012.

1. Oath of allegiance.
2. Confirmation of minutes of the last meeting of Parliament, which commenced on 19th January 2012.

5 **Mr Speaker:** May I sign the minutes as correct? (*It was agreed*) Thank you.

Clerk: 3. Communications from the Chair.
4. Petitions.

10

Announcements

15 **Clerk:** 5. Announcements: the Hon. the Minister for Education, Financial Services, Gaming, Telecommunications and Justice.

20 **Minister for Education, Financial Services, Gaming, Telecommunications and Justice (Hon. G H Licudi):** Mr Speaker, at the last meeting of Parliament, I made an announcement in relation to Command Papers and I indicated that we had announced then a new procedure for publishing Bills in draft in the form of Command Papers. I said to Parliament that draft Bills would be published in the Government's Gibraltar Laws website. I just want to clarify the procedure to avoid any misunderstandings. It is not *all* Bills that will be published in the form of Command Papers. We have realised, since I made that announcement, that there are some Bills which clearly do not fall within that category and do not require to be published in draft.

25 An example is the draft supplementary or, rather, the Supplementary Appropriation Bill. That is clearly not a Bill that ought to be published in draft, which is a procedure to allow the public to comment for a period of two weeks before the Government decides to publish the Bill itself.

30 The other type of Bill that, perhaps, ought not to be published as a Command Paper is in fact one that we did publish as a Command Paper. Command Paper no. 2 was a Bill in relation to civil aviation, which simply changed from 'Minister for Transport' to 'Minister for Civil Aviation'. Again, that is not a Bill that is appropriate to publish in draft form or publish for public comment.

35 What we do intend is that any Bill which introduces a new law, for example, the first one that we did, the law which had to do with smoking, banning in closed public places, freedom of information acts, those kinds of laws which are new laws which we introduced, we will certainly publish those as Command Papers in draft, for a period of two weeks so that the public can comment.

I thought I should clarify that, given my announcement to Parliament on the last occasion.

Mr Speaker: Thank you.

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Papers laid

45 **Clerk:** Papers to be laid, the Hon. the Minister for Education, Financial Services, Gaming, Telecommunications and Justice.

Minister for Education, Financial Services, Gaming, Telecommunications and Justice (Hon. G H Licudi): Mr Speaker, I have the honour to lay on the table the Annual Report of the Gibraltar Prison Board for the year ended 31st December 2011.

50 **Mr Speaker:** Ordered to lie.

Clerk: Reports of Committees.

55

Questions for Oral Answer

60

Clerk: Answers to Oral Questions.

65

TOURISM, PUBLIC TRANSPORT AND THE PORT

Gibraltar Tourist Board Exhibition at FITUR Fair in Madrid

70

Clerk: Question 107 of 2012, the Hon. D J Bossino.

Hon. D J Bossino: Can the Minister for Tourism, Public Transport and the Port inform the House whether the Gibraltar Tourist Board exhibited at the FITUR Fair in Madrid in January 2012 and if so, at what cost?

75

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

Minister for Tourism, Public Transport and the Port (Hon. N F Costa): Yes, Mr Speaker, I will answer this question together with Question 108/2012.

80

FITUR Fair in Madrid Attendance of Minister

85

Clerk: Question 108.

Hon. D J Bossino: Can the Minister for Tourism, Public Transport and the Port inform the House whether he attended the Fitur exhibition in Madrid in January 2012 and, if so, at what cost?

90

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

Minister for Tourism, Public Transport and the Port (Hon. N F Costa): Yes, Mr Speaker, the Gibraltar Tourist Board did exhibit at FITUR in January of this year. The total cost was £31,997, as set out below. I can confirm that I was in attendance and the information requested by the hon. Member is set out in a schedule, which I hand to him now.

ANSWER TO QUESTION NO 108 OF 2012

ANSWER TO QUESTION NO 107 OF 2012

STAND COSTS	20,078.85
SUBSISTENCE	3,959.57
ACCOMODATION	732.14
FLIGHTS	949.34
PRINTING OF BROCHURE	2,300.00
PHOTOGRAPHY	560.00
TRAVELLING EXPENSES	562.71
MISC	2833.83
HOSPITALITY	20.63
GRAND TOTAL	£31,997.07

CONTD ANSWER TO QUESTION NO 108 OF 2012

Contd answer to Question No 107 of 2012

FITUR 2012 EXPENSES

STAND	
IFEMA - COST OF SPACE , ELECTRICAL CHARGES AND INSURANCE	7363.53
ARQUITECTURA DE DISEÑO - ASSEMBLE STAND AND DECORATE	6276.81
ARQUITECTURA DE DISEÑO - STAND & FURNITURE	6438.51
SUBSISTENCE	
D FERRAR 7 NIGHTS FROM 16.01.12 TO 22.01.12	1734.25
G MACEDO 7 NIGHTS FROM 16.01.12 TO 22.01.12	1734.25
M SANGUINETTI 2 NIGHTS FROM 19.01.12 TO 20.01.12	245.53
N COSTA 2 NIGHTS FROM 19.01.12 TO 20.01.12	245.54
ACCOMMODATION	
N COSTA 2 NIGHTS @ MELIA PRINCESSA MADRID 19.01.12 TO 20.01.12	366.07
M SANGUINETTI 2 NIGHTS @ MELIA PRINCESSA 19.01.12 TO 20.01.12	366.07
FLIGHTS	
M SANGUINETTI (IBERIA) 18.01.12 TO 20.01.12	
MAL/MAD/MAL	474.67
N COSTA (IBERIA) 18.01.12 TO 20.01.12 MAL/MAD/MAL	474.67
PRINTING OF BROCHURE	
ERIDES PRINTING OF BROCHURES	2300.00
PHOTOGRAPHY	
I MARTINEZ - 14 IMAGES OF GIBRALTAR FITUR 2012 EXHIBITION	560.00
TRAVELLING EXPENSES	
TRAIN TICKET FOR D FERRAR & M G MACEDO 18.01.12 TO 23.01.12	314.02
TAXIS - AIRPORT/HOTEL, FITUR/HOTEL & HOTEL/AIRPORT	102.32
TAXI TO FITUR	37.01
MARK LOMBARD AND TYRONE TORRES DRIVING MINISTER TO AND FROM MALAGA AIRPORT	94.00
M G MACEDO MILEAGE FROM GIBRALTAR TO ALGECIRAS	15.36
MISC	
M H BLAND - MASCOT ROCKY 3 DAYS FITUR	150.00
SYLVIA MARTINEZ GALLEG0 - TRANSLATIONS @ FITUR'12	823.36
COFFEE, TEA BAGS, NAPKINS ETC	17.47
MRW COURIER	1523.00
ERIDES COURIER	320.00
HOSPITALITY	
REFRESHMENT MARKETING FLOAT	20.63
	<u>31997.07</u>

CONTD ANSWER TO QUESTION NO 108 OF 2012

Answer to Question No 108 of 2012

COST OF MINISTER ATTENDING FITUR 2012

SUBSISTENCE 19.01.12 to 20.01.12 (2 nights half subsistence)	£ 245.54
ACCOMODATION 2 nights Melia Princesa Madrid	£ 366.07
TRAVELLING EXPENSES Taxis-Airport/Hotel, FITUR/Hotel and Hotel/Airport	£ 51.16
FLIGHTS N Costa (IBERIA) 18.01.12 to 20.01.12 (MAL/MAD/MAL)	£ 474.67
TOTAL	£1,137.44

95 **Hon. D J Bossino:** Yes, Mr Speaker, given the Government's propensity to issue press releases at almost every turn, I thought it was important for me to ask for better particulars as to how the Fitur exhibition went. I was surprised there was not any public announcement in relation to that, so perhaps can the Minister advise the House whether he attended any meetings while he was at FITUR?

100 **Hon. N F Costa:** Mr Speaker, the hon. Gentleman, just arrived, is now telling the Government when we have to issue a press release. That is first in my reply. Secondly, the reason why we did not issue a press release was very simple. I went to Fitur essentially on a fact-finding mission to determine whether or not... there were many things but, first of all, value for money for Gibraltarians, whether going to FITUR meant that there was going to be business coming to Gibraltar – and I have already set out my position to my Cabinet colleagues, which we will discuss in Parliament in due course.

105 I can tell him that the way that it is currently formatted does not give the full potential that Gibraltar can achieve in an international fair of this sort. I can assure the hon. Gentleman that, when I went, I did not, like I am told someone else did, sit behind and do nothing, I, in fact, held something like six or seven meetings in the one full day that I was there. Not only that, I did meet with international operators, which I will not reveal at this moment because I am in commercial negotiations, and there has been a follow up with one of those international operators here at my office in Europort.

110 So to answer the question of the hon. Gentleman, no, we did not issue a press release, because we did not think at the time that it was for us to do so. Secondly, I did hold meetings, many of them, one of which has already had a follow through and, hopefully, we will be able to make an announcement shortly in respect of that meeting.

115 **Clerk:** Question –

120 **Hon. D J Bossino:** Were all those six or seven meetings with international operators, or can he give any particulars in relation to other meetings that he may have held with other groups? For example, were there press engagements?

125 **Hon. N F Costa:** Mr Speaker, if I recall correctly, I think I gave something like four interviews for Spanish TV channels, which of course meant free press... [*Inaudible*] ...stand. I also gave interviews to papers. There were meetings with international operators, as well.

Clerk: Question 109, the –

130 **Mr Speaker:** I think the Hon. Damon Bossino has another supplementary.

Hon. D J Bossino: I am thinking about one!

Mr Speaker: You will have to think very fast, I am afraid?

135 **Hon. D J Bossino:** No, carry on.

140 **Gibraltar Tourist Board
Exhibition at London Boat Show**

Clerk: Question 109, the Hon. D J Bossino.

145 **Hon. D J Bossino:** Can the Minister for Tourism, Public Transport and the Port advise the House whether the Gibraltar Tourist Board exhibited at the London Boat Show held in January 2012 and if so, can he provide details of the cost of his participation?

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

150 **Minister for Tourism, Public Transport and the Port (Hon. N F Costa):** Yes, Mr Speaker, I will answer this question together with Question 110.

155 **London Boat Show
Minister's attendance**

Clerk: Question 110.

160 **Hon. D J Bossino:** Can the Minister for Tourism, Public Transport and the Port advise the House whether he attended the London Boat Show exhibition in January 2012 and, if so, can he provide details of the cost of its participation?

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

Minister for Tourism, Public Transport and the Port (Hon. N F Costa): Yes, Mr Speaker, the Gibraltar Tourist Board did exhibit at the London Boat Show in January of this year, although I did not attend. The total cost was £15,394.79 and the information requested by the hon. Member is set out in a schedule, which I hand to him now.

170 By way of information the hon. Member may like to know that, last year, the cost was £23,000, in 2010, £20,000 and in 2009, £23,000.

Schedule to Question No 110/2012

London Boat Show 2012

SPACE STAND	5967.86
Less participation fees	-300.00
STAND COSTS - DESIGN, INSTALL AND DISMANTLE	9390.00
MISC / REFRESHMENTS ETC	336.93
ATTENDANCE BY GIB BASED OFFICERS OF THE G.T.B.	0.00
GRAND TOTAL	15,394.79

The GTB pays for the stand and then charges local companies for using part of the stand.

175 **Hon. D J Bossino:** Mr Speaker, as I understand it, the London Boat Show is quite an important one for business. The information that I have is that businesses such as sailing schools and yacht charterers lay a lot of importance on this Boat Show, because they take bookings, as I understand it, for the rest of the year, when they attend the Boat Show, so the previous Government laid a lot of emphasis on this particular Boat Show, because they saw it as a way of assisting industry. So, in this context, does the Minister not think it would have been of crucial importance for the Minister responsible for tourism to have attended this particular show?

185 **Hon. N F Costa:** Mr Speaker, the participants at the London Boat Show this year were Ocean Village, Tomboy Sailing and the Rock stand. This is handled primarily by the London Office.

As I have already advised the hon. Gentleman, the costs of the previous years were exorbitantly high. Last year was £23,411, 2010 was £20,737.47 and 2009 was the cost was £23,238.88, compared to the £15,000 spent this year.

190 If the hon. Gentleman were to take some time in looking into the matter, he will see that the turnout in participation in the London Boat Show has dropped year on year and, whereas this is something that has been considered as part of the global tourism policy, that the Cabinet will consider... for Cabinet to discuss, this is

one of the items that would be canvassed. It was not, at this point, thought appropriate to have the *additional cost* of the Minister in the light of the decreasing number of turnouts in the London Boat Show and we felt it was an expense the Government could save at this particular juncture.

195 If we attend next year, it would be a decision the Cabinet would take, having taken into account and having a devised a full, global tourism policy to encompass this Boat Show.

Hon. D J Bossino: Could he confirm that his non-attendance was on account of a cost-saving exercise?

200 **Hon. N F Costa:** Mr Speaker, I have just replied to the question.

No, the answer is that we are looking at the tourism policy globally. That means, of course, Mr Speaker, taking a look at the road shows, the tourist fairs, the boat shows and all of the money that the Gibraltar Tourist Board and, therefore, Government, spends in any international symposium of this type.

205 Whereas I was able to make a determination that, with FITUR, it was important to go and establish fact finding at that point, the particular boat show, the advice received was that it was sufficient to have a Gibraltar presence and, as I say, it does not mean we will not go in the future, it only means that the advice received was that the Gibraltar presence at the moment was sufficient and whether or not the Government takes a policy decision to discontinue or to go next year will be determined in Cabinet. When we are ready to make a policy announcement, as the hon. Gentleman has accused me of already, we shall, no doubt, issue it by way of a press statement.

210

Clerk: Question –

Hon. D J Bossino: Was there any official Gibraltar presence, is that the case?

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Hon. N F Costa: Mr Speaker, the information is in the schedule I have handed the hon. Gentleman, perhaps if he cares to read it?

220 **Hon. D J Bossino:** There is an item in the schedule, which reads, ‘attendance by Gibraltar based officers of the GTB zero’. So, other than physically having the stand there, for which, presumably, the Government paid, was any physical, human presence from the Gibraltar Government. Clearly not the Minister, but was there any other official presence at the London Boat Show, Mr Speaker?

225 **Hon. N F Costa:** Yes, Mr Speaker, I will be able to provide that information to the hon. Gentleman; it is not... I do not have it in my papers, but there was, of course, an official presence in Gibraltar... in the London Boat Show, sorry. I will be able to give him the information if he writes to me.

230 **Hon. D J Bossino:** That is all very well and good and I will take the Minister up on his offer, but the answer in respect of which I posed a supplementary was that the information was set out in the schedule he had handed to me. Can he confirm, in fact, that is *not* the case; the information is *not* set out in the schedule, which he handed to me?

235 **Hon. N F Costa:** Yes, Mr Speaker, the information *is* there. What the schedule says is that the cost was zero, but there was an official presence. The schedule that I handed over to the hon. Gentleman says ‘costs zero’. The GTB pays for the stand and then charges local companies for using part of the stand. The officials present were from the London office.

Hon. D J Bossino: Okay, so there was a presence and the official from the London office, okay, but clearly not revealed from a *prima facie* look at the schedule, Mr Speaker?

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Hon. N F Costa: Mr Speaker, as I have already said, in answer to the question, what the schedule shows is the zero cost of the attendance, not that there was not an official presence.

245

**Gibraltar Tourist Board
Senior management structure**

250 **Clerk:** Question 111, the Hon. D J Bossino.

Hon. D J Bossino: Can the Minister for Tourism, Public Transport and the Port provide details of the positions/posts, which comprise the senior management structure of the Gibraltar Tourist Board?

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

Minister for Tourism, Public Transport and the Port (Hon. N F Costa): Mr Speaker, the Gibraltar Tourist Board... the senior management structure of the Gibraltar Tourist Board is made up as follows: there is one Chief Executive, two senior managers, and eight managers.

260 **Hon. D J Bossino:** Mr Speaker, have all these posts been filled?

Hon. N F Costa: Well, Mr Speaker, that will assume that they are unfilled at present.

265 **Hon. D J Bossino:** Are there any posts unfilled at present?

Hon. N F Costa: Mr Speaker, the hon. Gentleman did not ask about the existing vacancies and how the GTB will be replacing them, if there are any vacancies to be filled.

270 I am not about to answer to him in this House as to the vacancies that are open, by whom they are going to be filled, etc. If he wants specific information on that, he will have to give me notice.

Hon. D J Bossino: Mr Speaker, with respect, that was surely implicit in the question.

275 I have asked for details of the positions, which comprise the senior management structure, as part of that structure. He says that the Minister responsible for his Department... If he is truly responsible and in charge of his brief, he ought to be able to know whether the positions are filled or not. It is a basic question. For example, is the Chief Executive position within the Tourist Board filled? Simple question. I would expect a simple 'yes or no' answer.

280 **Hon. N F Costa:** Mr Speaker, first of all, the hon. Gentleman is not in court cross-examining me, (Members: Ooh!) he is asking me questions in the Gibraltar Parliament.

Then let me tell him what he asks, because the hon. Gentleman, who definitely is keen on making announcements and then saying this Government is erecting an *impenetrable curtain* to his questions, what is clear from the questions that he asks is that the answers, which are very clear, are impenetrable only to the hon. Gentleman opposite.

285 Let me tell him what he asks: 'can the Minister for Tourism etc provide details of the positions/posts, which comprise the senior management structure?' That is the question that he asks and I have answered to him to say, yes, one Chief Executive, two senior managers and eight managers. If he had wanted to know the number of vacancies and the process by which my Department would proceed to fill these, that is an entirely different question and I am not answerable in this House to him, to tell him how am I to do that without written notice of those questions.

290 **Mr Speaker:** I think it is a valid supplementary to the question posed and the answer given. I think it is a valid supplementary to say: are all those posts filled?

295 **Hon. N F Costa:** If the hon. Gentleman wants to ask me a specific supplementary on a particular post that he is referring to, I will be happy to give him the answer.

Hon. D J Bossino: Mr Speaker, I really am *astounded* from this side of the House, that the Minister responsible for tourism does not even... is unable to answer the basic supplementary –

300 **Hon. N F Costa:** On a point of order... On a point of order. (*Intervention by The Speaker*) On a point of

order, on a point of order! (*Interjections*)

Mr Speaker: We will listen to the point of order first.

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Hon. N F Costa: On the point of order, I did not say – he has just invented this – I have not said I am unable, I said I did not think it was appropriate, given the original question, not that I am unable to do so. That is very different.

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Hon. D J Bossino: I think the charge remains, Mr Speaker, and the question is –

Mr Speaker: Put the question, please.

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Hon. D J Bossino: And the question is, is it possible that the Minister with responsibility for his Department, which is tourism, appears to be unwilling, shall we say, not necessarily unable, he says he has the ability to do so, but is unwilling to do so, because I have not given him notice. It is a simple question. Is the position of Chief Executive Officer of the Gibraltar Tourist Board filled or not? Simple question. Is he *willing* to answer the question, or isn't he?

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Hon. N F Costa: Mr Speaker, with respect, that was not the original supplementary, but if that is *now* the supplementary (*Interjection by The Speaker*) he is asking – but he should not mislead this House that that was the original, it was not – but if that is the specific supplementary he is asking, there is currently an acting Chief Executive.

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Hon. D J Bossino: Can the Minister advise the House who the acting Chief Executive Officer is? Is he willing to provide that information?

Hon. N F Costa: Sorry, sorry?

330

Hon. D J Bossino: Who the acting Chief Executive Officer is? Is he willing to provide that?

Hon. N F Costa: The hon. Member can look to his right and ask those beside him. It is the same person who has been there since May of last year.

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Hon. P R Caruana: Mr Speaker, that is the answer. It is the same person.

He cannot look to his right. I know that the hon. Members regret finding themselves on this side of the House and wish that we were on that side (*Laughter*) Then I *would* know the answer to the question! But what we are trying to find out is whether there has been a change since they assumed the responsibilities of government.

340

Clerk: Question 112, the hon. D J –

Hon. N F Costa: Mr Speaker, was there a question there or was it just a statement?

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Mr Speaker: There could have been a rhetorical question, but has there been a change? I think that was the question understood.

Hon. N F Costa: And I gave the answer.

350

Hon. D J Bossino: When does the Minister envisage the acting position to become a full-time, permanent position?

Hon. N F Costa: We will announce it shortly, Mr Speaker.

355

**Gibraltar Port Authority
Post of Marine Officer**

360 **Mr Speaker:** Question 112, the Hon. D J Bossino.

Hon. D J Bossino: Since Question 4/2012 was put to the Minister for Tourism, Public Transport and the Port, can he advise whether the position of marine officer has now been filled?

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

Minister for Tourism, Public Transport and the Port (Hon. N F Costa): Mr Speaker, the Government is currently in the process of advertising the vacancy.

370 **Hon. D J Bossino:** The Minister, I am sure, will be fully aware that the position of marine officer is a crucial aspect of the –

A Member: Of the Chief Secretary! (*Laughter*)

375 **Hon. D J Bossino:** – of the... is a crucial aspect of the architecture of the... I will repeat the question if the Minister wishes me to? (**Hon. N F Costa:** Yes.) A visual aspect of the port architecture... Can he assure this House that efforts will be made to fill this position as quickly as possible?

380 **Hon. N F Costa:** Yes, Mr Speaker, it has been as crucial today as it was since it was vacant in April 2011. I have told the hon. Gentleman that we are in the process of advertising the vacancy. I trust my official would have, in fact, made the vacancy this morning, but, yes, if it was so crucial today, it certainly would have been crucial all the way back since April 2011, since it became vacant.

Members: Hear, hear. (*Applause*)

385 **Clerk:** Question 1 –

Hon. D J Bossino: Can the Minister advise whether the terms and conditions of the post have been revised? In the last House he mentioned that that was being looked at and, given that the Ministry is now poised to advertise, can he advise whether the terms and conditions have been revised?

390 **Hon. N F Costa:** Yes, Mr Speaker, the only – well, what I can do for the gentleman is, I can certainly provide him with a copy of the vacancy, if he so wishes.

395 I can tell him that, in terms of qualification, obviously, the person needs to be suitably qualified to be able to act as a deputy to the Captain of the Port. Part of the vacancy, from recollection, says that he must have considerable experience in maritime and port administration matters, precisely because he would be deputising for the Captain of the Port. Those are the most important qualifications, Mr Speaker, but, as I say, I am perfectly happy to provide him with a copy of it.

400 **Hon. D J Bossino:** Are you writing separately, or are you providing it to us in any case?

Hon. N F Costa: I will provide it.

405 **Hon. D J Bossino:** As part of the qualification, which is that he has to be suitably qualified, can he advise the House whether that will include the Master Mariner requirements, which I understand is a qualification that the Captain of the Port has?

410 **Hon. N F Costa:** Well, Mr Speaker, what the Captain of the Port has is an *unlimited* Master Mariner's certificate and that is not a requirement for the marine officer. He does not need to have an unlimited... There are two types of Master Mariner's certificate, the unlimited, which is the class 1 and then the other certificate of competence, he would not be required to have the unlimited master's certificate.

Hon. D J Bossino: And if he is going to fully deputise for the Captain of the Port, do you think that would be a qualification that would be desired – the unlimited, what is it, Master Mariner’s qualification?

415 **Hon. N F Costa:** Mr Speaker, as the hon. Gentleman will have recalled when I gave my answer to him on the last occasion, there was a period of time where not even the Captain of the Port had an unlimited mariner’s ticket. Let me also tell him that, since this gentleman passed away in May, and there was not a marine officer, there was a sudden departure, as well, of Captain Hall, which meant that, for quite some time, the Port did not have a Captain and did not have a master mariner. That was during the time in their administration, so he can rest assured that, now that we have a Captain starting at the end of February and that we will have a marine officer, hopefully, I feel quite sure that the operational requirements of the Port will be to his full satisfaction covered.

420

425 **Withdrawal of Gibraltar and Algeciras ferry service
Meeting with Managing Director of Medex SL**

Clerk: Question 113, the Hon. D J Bossino.

430 **Hon. D J Bossino:** Can the Minister for Tourism, Public Transport and the Port advise the House, when he met the managing director of Medex SL, in respect of the withdrawal of their ferry service between Gibraltar and Algeciras and what transpired during the meeting?

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

Minister for Tourism, Public Transport and the Port (Hon. N F Costa): Yes, Mr Speaker, at the request of the managing director of Medex, I met him, Mr Rodriguez, on 23rd January this year with two officials present.

440 During the course of the meeting, Mr Rodriguez briefed me on the financial situation of Medex and that the company, in his words, could not even meet the basic running costs of the maritime operation. He proceeded to request a Government subsidy to maintain the operation afloat.

445 Just for the sake of clarification to the hon. Gentleman, when he requested a subsidy, what we are talking about is between €44,000 to €49,000 *monthly*. I informed him that I would immediately hold discussions with the Chief Minister and the Deputy Chief Minister which, true to my word, I immediately did and that we would have a full discussion at the Cabinet meeting the week after.

450 **Gibraltar Port Authority Licensing Committee
Applications awaiting determination**

Clerk: Question 114, the Hon. D J Bossino.

455 **Hon. D J Bossino:** Can the Minister for Tourism, Public Transport and the Port provide details of the applications which are currently before the Licensing Committee of the Gibraltar Port Authority which are awaiting determination by the Authority?

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

460 **Minister for Tourism, Public Transport and the Port (Hon. N F Costa):** Yes, Mr Speaker, I will answer this Question together with Question 115.

465

**Gibraltar Port Authority
Dates of meetings since General Election**

470 **Clerk:** Question 115.

Hon. D J Bossino: Mr Speaker, can the Minister for Tourism, Public Transport and the Port provide the dates of the meetings held by the Board of the Gibraltar Port Authority since the last General Election?

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

Minister for Tourism, Public Transport and the Port (Hon. N F Costa): Yes, Mr Speaker, the Gibraltar Port Authority will meet on 22nd March this year. There are currently five applications. In fact, there were five applications at the time the answer was drafted. Now there are four applications pending. There is one application for a tourist sightseeing operator licence, one application for a waste operator licence, one application for a ship agency licence and one application to transfer a bunkering licence.

480 **Clerk:** Question 116 –

Hon. D J Bossino: Again, Mr Speaker, I am rather surprised that the Gibraltar Port Authority, which has very wide and crucial statutory powers which it has to discharge, has not met once since the General Election of 8th December and that the first meeting has been scheduled for 22nd March.

As I understand it, the Minister is the Chairman of that Authority. Can he at least advise whether he has met with the current members of the Port Authority, even informally?

490 **Hon. N F Costa:** Mr Speaker, in the first place, the Government is in the process, obviously, of making the composition of the new Port Authority, but if what the hon. Gentleman is concerned about is to ensure that there is no effect on the operations of the Port, I can assure him that, other than personally attending to the Port on a couple of occasions, I meet regularly with the Senior Port Officer and with the acting Captain. I can assure him that no operations of the Port are being affected by the fact that the Port Authority has not met yet, and when it does, of course, it will be able to do so very quickly... deal with these applications.

495 But I can assure him that no operational activity or business is being affected.

500 **Sea Trade Fair in Miami
Government participation**

Clerk: Question 116, the Hon. D J Bossino.

505 **Hon. D J Bossino:** Can the Minister for Tourism, Public Transport and the Port inform the House whether the Government intends to participate in the Sea Trade Fair in Miami, USA?

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

510 **Minister for Tourism, Public Transport and the Port (Hon. N F Costa):** Mr Speaker, yes.

Hon. D J Bossino: Has the Minister decided who will be forming part of the Government delegation at this stage?

515 **Hon. N F Costa:** Mr Speaker, we are in the process of finalising that detail, but the reason why we felt that it was important to attend the Miami Sea Trade Fair is essentially because of the nature of the explosion.

We want to take the opportunity to meet with the current operators to assure them of the safety of the Port and, of course, not just existing operators but also we have already set up meetings with various operators to ask them and make representations as to why, if they are cruising the Mediterranean, they should come to stop in Gibraltar.

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525 **Hon. P R Caruana:** Mr Speaker, is the Hon. Minister aware that, whilst we, on this side of the House, welcome the fact that he should continue to attach importance to the comfort that the Port offers cruise operators in particular, that process had already begun under his predecessor and what *we* found, when we were on that side of the House, was central to that was a commitment by the Government, which was not actually given but it was indicated that the Government – and indeed I gave it in this House – was going to try to deconflict fuel activities from passenger-handling activities at the Port.

530 Therefore, does the hon. Member agree that continuing to try to relocate the sullage plant and, indeed, other fuel-handling facilities on the North Mole, will be an important part of giving comfort to cruise lines, particularly the affected ones which stood by the Port of Gibraltar, and that, as cruise ships become bigger, longer, the front or the back reaches even the most southerly fuel facility in Gibraltar.

Does the hon. Member therefore attach importance to continuing, as we had started to do, with investigating the possibility of coming to some arrangement with fuel operators to relocate them to other places?

535 **Hon. Chief Minister:** Mr Speaker, if I might, because this touches on an area in which the hon. Gentleman was himself involved when he was Chief Minister and I am now involved myself.

540 As he is aware, there is litigation by one operator touching and concerning exactly these issues, and I think it is probably wise for us not to get into the detail of that at all today. In fact, I think the rules will prevent us from doing so. But let me put it to him this way: I am not going to dispute what he is saying. I think that is sufficient. At least he will understand where we are going.

Clerk: Question –

545 **Hon. P R Caruana:** Yes, Mr Speaker, I am grateful to the hon. Member and I acknowledge his difficulty. Our Government had not proposed necessarily to proceed by compulsion. The question was carefully phrased around trying... in agreement with fuel operators, and that certainly would have been our preferred option, as I am sure it will be his.

550 **Hon. D J Bossino:** Mr Speaker, on a different matter, but it touches upon the answer given to the Sea Trade question, I appreciate that the Minister has been in office for about three months, but given his attendance at the FITUR Fair and the Government's apparent presence at the London Boat Show and now the intention to attend the Sea Trade Fair, it is looking very much like the previous administration did. Can the Minister advise whether he thinks there is, in fact, now a departure from previous GSD policy in relation to tourism marketing, which was so very much maligned and criticised by his colleague to his left?

555 **Hon. N F Costa:** Mr Speaker, perhaps the hon. Gentleman did not hear the part of the answer originally when I told him that the reason why I went to FITUR was precisely to determine whether or not the international markets *do* give value for money. Does he remember now? Does he want me to carry on?

560 **Hon. D J Bossino:** It is interesting that, in relation to the FITUR Fair, Mr Speaker, the costs were £10,000 more than last year, but anyway... A very expensive fact-finding mission.

Hon. N F Costa: Sorry?

565 **Mr Speaker:** Was there a question there? There should not be remarks... (*Interjection*) ... 'expensive fact-finding mission'.

Hon. N F Costa: In respect of what?

570 **Hon. D J Bossino:** The Minister is saying that he went to FITUR on a fact-finding mission. (*Interjections*)

Mr Speaker: Order! Order! Order!

575 The hon. Member said there is no question. Really, we must get used to the practice of asking questions. Next question, please.

**Transport Commission
Dates of meetings since General Election**

580 **Clerk:** Question 117, the Hon. D J Bossino.

Hon. D J Bossino: Can the Minister for Tourism, Public Transport and the Port provide the dates of the meetings held by the Transport Commission since the last General Election, together with a list of all applications currently pending the Commission's determination?

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

Minister for Tourism, Public Transport and the Port (Hon. N F Costa): Yes, Mr Speaker, the Transport Commission will meet on 29th of this month.

590 There are currently 13 applications pending: seven applications for renewal of a licence to drive a PSV omnibus; four applications for a renewal of a licence to drive a PSV taxi omnibus; one application for a renewal of a licence to drive a PSV taxi and omnibus; one application for a transport operator's licence.

I am advised by the Gibraltar Regulatory Authority that I cannot disclose the specific details of the applications but I was allowed to list the applications and the categories that were...

595 **Hon. D J Bossino:** Mr Speaker, again, this is a Statutory Board body which has very important statutory powers to discharge, which include advising the Government on matters relating to public transport.

Does the Minister not agree with me it is a very sad and sorry state of affairs that a Commission of this nature, a statutory body of this nature, has, three months in since he took office, not yet met?

600 **Hon. N F Costa:** Mr Speaker, perhaps I can answer the question in this way: we have been in Government for two-and-a-half months and they had been in Government for 15½ years and, in 2011, between 31st May and 19th October, four-and-a-half months, there were no sittings of the Transport Commission.

605 **Hon. D J Bossino:** Well, certainly the membership of the Transport Commission has changed, because I was a member of it and I resigned, given my new role. *(Interjections)* Can the –

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

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

Can the Minister advise whether the membership of the Transport Commission has already been gazetted, because I have not seen anything published in the *Gazette*.

615 **Hon. N F Costa:** Mr Speaker, I gave instructions for that to happen last week. I will double check now with my office, but if it did not happen last week it should certainly happen this week.

Hon. D J Bossino: I dare say, Mr Speaker, it was as a result of the notice of my Question.

Hon. N F Costa: No, Mr Speaker –

620 **Mr Speaker:** There was no question there.

Hon. N F Costa: No, Mr Speaker, but the answer is certainly no. *(Interjection by Hon. D J Bossino)*
(Laughter)

625 **Hon. P R Caruana:** Mr Speaker, is the Hon. Minister saying to this House... Did he say to this House – I think I heard him correctly – that the Gibraltar Regulatory Authority had advised him that he could not give details of pending applications?

630 **Hon. N F Costa:** Specific details of applications.

Hon. P R Caruana: Yes, well, Mr Speaker, is the hon. Member aware that the GRA never gave advice of that nature to the previous Government, and they themselves, when sitting on this side of the House, did not feel that any data protection consideration arose when they used to ask similar questions about applications for Development and Planning Commission building licences and the sort?

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Are we experiencing yet another example of the hon. Members *slamming* the stable door behind them as soon as they have entered the stable?

Hon. Chief Minister: Mr Speaker, certainly not, because, given that the hon. Gentleman has so much time on his hands,

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Hon. P R Caruana: [*Inaudible*] ...the Hon. Minister, not to the Hon. the Chief Minister. (*Interjections*)

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

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Hon. J J Bossano: He used to answer all the supplementaries before!

Hon. P R Caruana: A new dawn!

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A Member: Mr Speaker –

Mr Speaker: Order!

Hon. Chief Minister: I am on my feet to give the answer.

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Hon P R Caruana: A supplementary!

Mr Speaker: Order! Order! Order! The... Order! The Chief Minister has the discretion of deciding who answers questions. (*Interjection*)

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Then what are we complaining about?

Hon. P R Caruana: Mr Speaker, the Chief Minister has the discretion. Mr Speaker, it is *not* the role of the Speaker in this House to protect the Government politically from the Chair.

Mr Speaker, just as he is entitled to stand up and answer the supplementary, I am entitled to stand up and ask him why it is not the person who was asked the question that is answering it.

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The Hon. Minister gave an answer. The simplest form of supplementary, designed to establish the *reasonableness* of the original answer is not answered by the answerer, but by the Chief Minister, in an attempt to deflect the obvious point, and I am asking Minister Costa, if he cannot answer, then let him not do so. Let him say that he cannot.

My question to him is: what is the difference, in data protection terms, between these questions and the ones that *they* used to ask, particularly Dr Garcia, in relation to such things as planning applications and other applications pending in many areas of public life. I am holding him to his answer, that the GRA has given him the advice that he has said in his answer.

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Mr Speaker: Well, having heard the Hon. Leader of the Opposition, it is still my view that the Chief Minister can decide who answers on his side.

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Hon. Chief Minister: Mr Speaker, the hon. Gentleman asks a question about *they – us* – closing the door behind us, and of the Government. He has tried to rephrase it to make it of the hon. Gentleman, but his general question originally merits an answer.

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Mr Speaker, the hon. Gentleman has a lot of time on his hands now. He can now attend public meetings of the Development and Planning Commission, something which he, in Government, was never in favour of. In those meetings, he can see exactly what is happening in respect of every application, something that he, in Government, prevented the public from doing.

In *his* manifesto he suggested that perhaps minutes of those meetings might be published. In our manifesto we promised that they would be open. So, in respect of the part of his supplementary that deals with the

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Development and Planning Commission, the position has changed so greatly, we have opened the doors and opened Government to scrutiny so *massively* that the changes are patent for all to see, and it could only be in an attempt to make a cheap, petty, political point less than 20 minutes after he has arrived *late* to this session of the Parliament, that anybody could want to ask a supplementary like the one the hon. Gentleman has asked.

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I think it is absolutely right and proper that a Minister should take advice from the Regulatory Authority in respect of data protection issues and stand by that advice. Is it that he is saying, Mr Speaker, that having taken the advice we should contradict it?

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Hon. P R Caruana: No, Mr Speaker, what I am trying to establish from the hon. Member is the accuracy of his answer, that he has had advice to the effect and purport that he believes does not entitle this House to this information.

For example, Mr Speaker, does it not strike the Hon. the Chief Minister, given that he has no confidence in his Minister to defend himself on this issue (*Interjections*) –

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Hon. Chief Minister: Mr Speaker, on a point of order – and therefore he must sit down –

Hon. P R Caruana: Does it not strike the Hon. –

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Mr Speaker: Order! Order!

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

Mr Speaker: There is a point of order.

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Hon. P R Caruana: Mr Speaker –

Mr Speaker: There is a point of order.

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Hon. P R Caruana: A point of order is to be established by the Chair, not by the Chief Minister!

Hon. Chief Minister: I have to pronounce it first!

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Mr Speaker: A point of order has been raised. I have to listen to the point of order before I can pronounce on it.

Hon. P R Caruana: Every time I ask a question I am interrupted by a point of order.

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Hon. Chief Minister: Mr Speaker, I *specifically* said that the reason I was answering was not because I have no confidence in my Minister. I have full confidence in all of my Ministers, as does, obviously, a majority of the electorate, because that is why we are here and they are there. (*Interjection by Hon. P R Caruana*)

The reason that I got up to answer the question was because I said that – (*Interjection by Hon. P R Caruana*)

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Mr Speaker: Order! Order!

Hon. Chief Minister: – the hon. Gentleman asked a question of the Government and not of the Minister.

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He misrepresents what I said a moment ago, and that is how we get ourselves into lengthy debates. I would ask that, given that they are going to have, not two or three chances a year to hold the Government to scrutiny – they are going to have 10, 11 or 12 sessions a year to hold the Government to scrutiny – he should simply not misrepresent the things that we are saying, because otherwise Question Time becomes extended into a slinging match, which is not what the public are interested in.

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Two Members: Hear, hear.

Hon. P R Caruana: Mr Speaker, first of all, the hon. Member does *not* have the confidence of the majority of the electorate; he has the confidence of a minority of the electorate –

745 **A Member:** More than you!

Hon. P R Caruana: – a fact that he should not forget.

750 Secondly, Mr Speaker, we on this side of this House will not accept the mantra that he appears to be trying to establish, which is that the frequency of the opportunity that we get to ask questions in this House degrades the quality of the Government's obligation to provide information in this parliament and to answer questions, and we will challenge in this House, as frequently as possible, waffly answers like that, which are just designed to deny questions to this House.

755 Mr Speaker, I cannot have misrepresented anything that he said, because I was not into my second *sentence* before he had interrupted me with an alleged point of order, (*Interjection*) which Mr Speaker was perfectly happy to allow, which was just a pretext to repeat the waffle that he had just served up immediately before already.

760 Mr Speaker, the question was this: does it not strike the Hon. Chief Minister as odd that the Chief Executive of the Gibraltar Regulatory Office should have advised his Minister that he cannot provide details of applications to this House precisely because – does he not think it odd, *precisely because* – as he has just said, these applications are considered in public? Why does the hon. Member think that there should be a data protection issue and that the GRA would have advised the Minister that he cannot provide information to this House and the very next thing that the Chief Minister says in this House is that it is in the public domain because he could have gone to hear it *live* in the Commission.

765 Mr Speaker, it is not appropriate that the hon. Members should deny to this Opposition in this House information of the type that they felt free, justified and entitled to ask when they were in Opposition and which we *gave* them when we were in Government, and therefore, Mr Speaker, I ask the hon. Member to reconsider his answer to the question, which is that when the Opposition asks for information about matters that are before these decision-making tribunals, they should give it to us as we used to give it to them for the benefit of Parliament, and that, therefore, Mr Speaker, the question of frequency of Parliament meetings is not germane to that question.

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Hon. Chief Minister: Mr Speaker, there is no point in taking each other on, expressing that what one is saying is waffle and what the other is saying is waffle, because let me assure him that if he thinks I am talking waffle, there are no words which are parliamentary enough for me to describe the sort of things that he says. That is first.

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Second, our recollection on this side of this House is that we never used to get information relating to what was before tribunals. In any event, if there is an interest in the hon. Gentleman obtaining this information, he can turn up, as he rightly says, to the Commission and hear what is going on at those hearings. (*Interjection by Hon. P R Caruana*) In any event, Mr Speaker, information which is public should not be asked about.

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Mr Speaker, the position is actually not about *any of that*, because the hon. Gentleman is trying to avoid the principal point, which is that we have advice from somebody who is responsible for data protection, who tells us that we should not be providing the information and he is the person responsible for determining what is or is not to be provided in terms of data protection, so we rely on that answer. The hon. Gentleman can write to the Gibraltar Regulatory Authority and ask them to change their advice to the Government, if he wishes to.

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Hon. P R Caruana: Mr Speaker, have I correctly understood his answer, therefore, to be that if I want the information it is available if I bother to turn up in person to the tribunal, but that this Parliament *cannot* have it on the basis of some pretext relating to the Data Protection Act, which apparently does not apply to the people in the public gallery of the tribunal or the hearing? It is an *incredible, unbelievable* answer, which this side of the House does not accept as to its accuracy. (*Interjections*)

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Hon. Chief Minister: Mr Speaker, how *dare* the Hon. the Leader of the Opposition say that something that the Government is saying is a pretext?

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Hon. P R Caruana: Yes, it is.

Hon. Chief Minister: We are saying clearly to him and to the community that we have taken advice on the issue, that the advice from the person responsible is that we should not disclose the information, that there is no secrecy agenda, that he can turn up to a tribunal and hear what is going on.

800 Well, Mr Speaker, if he does not like it, it is *his* data protection law that we are relying on, it is *his* Data Protection Commissioner that is giving us the advice, because all of these laws... and this particular individual was appointed in his time and we have no difficulty with that. We are simply seeking to act in accordance with advice that we have been provided.

805 But, of course, the hon. Gentleman needs to try as hard as possible to denigrate the absolute and complete transparency that this Government has brought to politics in Gibraltar. (*Applause and banging of desks*) He has to try, by a pretext, at every possible invitation to pretend that we are being more secretive than them. He has to pretend that what he could have done in the past 16 years with a flick of his pen, which was to call a meeting of this Parliament every month, means *nothing* in the context of openness, of transparency and of accountability, because we will not answer a question giving him a list of matters before a tribunal.

810 Well, Mr Speaker, I have told him before and I will tell him again: he seems to have plenty of time on his hands – he can go and sit in the Commission and make a list of the matters as they are called.

815 **Hon. P R Caruana:** Mr Speaker, what is becoming apparent to this side of the House, as indeed it is becoming apparent to much of Gibraltar, quite so recently after a General Election, is that the hon. Member's alleged commitment to transparency and open Government is *paper thin* and it is uttered with a forked tongue. (*Applause*) It actually does not materialise in public. It is froth. It is political mantra adopted for the purposes of *sounding* good, but then it does not actually get delivered in the practice. So I will denigrate the hon. Member's attitude for denying *this* Opposition information which was freely given to them by us when we were in Government, which they felt free to ask and did ask and we answered, and which we now ask from this side of the House, now that the boot is on the other foot, and they answer...

820 Can I ask the hon. Member whether the advice that is alleged to have been tendered to them by the Data Protection Commissioner was tendered spontaneously or was it *sought* by the Government?

825 **Hon. Chief Minister:** Mr Speaker, the only thing that is paper thin is the veneer that the hon. Gentleman sets up around his sour grapes at having lost the Election. The only froth that we see from this side of the House is the froth of the hon. Gentleman trying to continue to make himself relevant to the political debate in this town.

Mr Speaker, the only political mantra that bears any repeating, as far as the hon. Gentleman is concerned, is the political mantra of trying to denigrate a Government that is barely nine weeks into its job.

830 Mr Speaker, I will say to the hon. Gentleman, let him go into the *Hansards* and identify when this Opposition asked the question of the number of matters pending in the Transport Commission and they gave more information than they have been given today, because that is the premise on which he launches his questions. Let him find it and bring it to the House.

835 **Hon. P R Caruana:** No, Mr Speaker, that is not the premise of my question. The premise of my question is not specific to the Transport Commission. The premise of my questions has been generic, not specific, to asking about information on matters before statutory decision-making commissions and tribunals. Surely the Hon. Dr Garcia will remember his regular questions about matters considered and before the Development and Planning Commission. This House – all the Members that were in it in the past Parliament – will remember it.

840 But he has not answered my supplementary, which is: was the advice by the Chief Executive of the GRA sought or given? I armour him with my motives for asking that supplementary, and that is that, as far as I am aware, the very same Data Protection Commissioner never gave *spontaneous* advice to that effect, and therefore I have to assume that it was specifically sought. I am asking him was it specifically sought, the advice, or was it spontaneously tendered by the GRA without having been solicited by the Government.

845 **Hon. Chief Minister:** Mr Speaker, I am grateful that the hon. Gentleman has realised that he was careering fast towards a wall in insisting that they had asked questions about the Transport Commission before, when clearly they had not, and that he has turned just in time before the brakes failed.

850 Mr Speaker, as I understand it, in relation to the second part of the hon. Gentleman's speech, the advice was sought on the recommendation of a civil servant who saw the question and felt that it required such

advice, and therefore it was sought on the basis of the recommendation of a civil servant.

Hon. P R Caruana: And therefore it was sought by No. 6?

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Hon. Chief Minister: Mr Speaker, it was sought by the civil servant who was dealing with the issue for the Minister. You see, the days of control at No. 6 are a thing of the past.

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**Yachting tourism in Gibraltar
Government policy**

Clerk: Question 118, the Hon. D J Bossino.

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Hon. D J Bossino: Can the Minister for Tourism, Public Transport and the Port advise the House what the Government's policy is in relation to yachting tourism in Gibraltar?

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

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The Minister for Tourism, Public Transport and the Port (Hon. N F Costa): Mr Speaker, in line with other areas related to tourism, the Government's policy is to increase the visitor numbers, be they from visiting yachts or cruise ships or coming through the border or through the airport.

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Government has been, since being elected into office, meeting stakeholders in order to formulate and eventually establish a detailed policy plan in order to achieve the objective of increasing tourist arrivals and therefore tourism-generated revenue for Gibraltar.

Of course, an increase in passenger numbers cannot happen without also considering the existing transport infrastructure, which the Government is also addressing equally by a similar process of engaging in an extensive process of dialogue and consultation with the relevant stakeholders in their field.

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At the same time, I am dealing with the Gibraltar Tourist Board and the relevant operators in that field to engage in devising – as I have already said in this House now, I believe, on three occasions – a global and holistic tourism policy.

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SPORTS, CULTURE, HERITAGE AND YOUTH

**City Fire Brigade
Commencement of new Fire Station**

890

Clerk: Question 119, the Hon. Mrs I M Ellul-Hammond.

Hon. Mrs I M Ellul-Hammond: Mr Speaker, can the Hon. the Minister for the Fire Brigade state when the full audit of the City Fire Brigade will commence and how long does he envisage it will take?

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Clerk: Question 119.

Mr Speaker: Wrong Question – 119. I think the hon. Lady has missed Question 119.

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Clerk: Question 119.

Hon. Mrs I M Ellul-Hammond: My apologies, Mr Speaker.

Mr Speaker, can the Hon. the Minister for the Fire Brigade state when the Government will be commencing work on a new fire station and where?

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

Minister for Sports, Culture, Heritage and Youth (Hon. S E Linares): Mr Speaker, I will answer this Question together with Question 120/2012.

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**City Fire Brigade
Commencement and length of audit**

915 **Clerk:** Question 120.

Hon. Mrs I M Ellul-Hammond: Mr Speaker, can the hon. the Minister for the Fire Brigade state when the full audit of the City Fire Brigade will commence and how long does he envisage it will take?

920 **Clerk:** Answer, the hon. the Minister for Sport, Culture, Heritage and Youth.

Minister for Sports, Culture, Heritage and Youth (Hon. S E Linares): Mr Speaker, it is not known how long the audit review of the City Fire Brigade will take, but it will definitely commence before 9th March 2012.

925 Following the completion of the full audit review, Government will be in a better position to consider the specific requirements for the new fire station and advice on where it should best be located.

Hon. Mrs I M Ellul-Hammond: Mr Speaker, can the Minister advise who will be conducting the audit?

930 **Hon. S E Linares:** Mr Speaker, the Chief Fire Officer is currently looking at two forces: one from Scotland and one from the Home Office. Once we have established the connections and contact with them and given them the remit, we will decide which force will actually do the audit.

935 **Hon. Mrs I M Ellul-Hammond:** So, Mr Speaker, can the Minister give us an indication on how much the audit could cost us?

Hon. S E Linares: No, not at this stage, because we do not know how long it will take and what the length and the extent of the audit is, so we cannot at this stage, no.

940 **Hon. Mrs I M Ellul-Hammond:** Mr Speaker, in relation to the location of the new fire station, seeing that in the Government's manifesto, you state that, within three months of your election as a Government, you will commence work on a new fire station as a priority, does the Hon. Minister have an idea as to where the new fire station would be located?

945 **Hon. S E Linares:** Mr Speaker, the manifesto states that we will be conducting the review within three months, not the fire station – the commencement of work on the fire station. But be that as it may, we are expecting that, after the review, we will be in a better position, like I answered in my question, and that will include locations, because these experts come and do the review, they could also help us in giving us advice on where the best location would be.

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**25-metre swimming pool
Details of temporary closure**

955 **Clerk:** Question 121, the Hon. E J Reyes.

Hon. E J Reyes: Mr Speaker, can the Minister for Sports and Leisure provide details of the occurrences which led to the temporary closure of the 25-metre swimming pool on Saturday, 4th February, with details of the remedial works required to be carried out and estimated timescales of completion?

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

965 **Minister for Sports, Culture, Heritage and Youth (Hon. S E Linares):** Mr Speaker, the ducts for the humidifier at the 25-metre swimming pool which had not been working for more than six years collapsed into the spectator stand some time during the night of 3rd and early morning of 4th February. Had this happened during the day, it would have caused a catastrophe.

970 When the workers arrived in the morning to open the premises, they realised what had happened and obviously closed the pool to the swimmers and the public. The emergency section of the GJBS was subsequently called upon to remove all debris from the stands area, the poolside and the pool itself. Instructions were further given to remove all the ducts that had remained attached to the ceiling of the pool.

975 A Health and Safety inspection and a structural survey of the ceiling was conducted by officers of the Government Technical Services Department on Monday 6th/Tuesday 7th. On Tuesday, an air quality inspection was carried out by two of our senior officers from the Environmental Agency. On Wednesday, a further structural survey was conducted and some minor repairs to tiles and doors were done to satisfy the Health and Safety officer. The pool was reopened to the swimmers and the public by Thursday.

Hon. E J Reyes: Mr Speaker, would it possible at this stage to have an idea of the estimated costs involved now in carrying out those remedial works that were undertaken?

980 **Hon. S E Linares:** No, they have not sent the invoice yet.

**Culture and Heritage Agency
Number of employees**

985 **Clerk:** Question 122, the Hon. E J Reyes.

990 **Hon. E J Reyes:** Mr Speaker, can Government state how many persons are currently employed by the Culture and Heritage Agency, giving a breakdown by grade, sex, nationality and department?

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

995 **Minister for Sports, Culture, Heritage and Youth (Hon. S E Linares):** Mr Speaker, the current information the hon. Member is seeking is the same as existed before 8th December 2011 and therefore I pass the information in this schedule (*on the following page*).

1000 **Hon. E J Reyes:** Mr Speaker, in thanking the hon. Member for this information, I was rather surprised that, at the last meeting, I sought this information through a written question, and the reply I got was that the Government was not yet in a position to provide the information, and yet the Minister now says that there has been absolutely no change from last time.

Could the Minister explain why the information was not available last time round?

1005 **Hon. S E Linares:** Yes, Mr Speaker. Very simply, because when I got the Culture and Heritage Agency, the whole Agency was a mess, quite frankly. There were people from all GDCs, civil servants, private companies, all bunged into a last-minute signing off of these posts, so it has taken a little bit of time, and I was not at the moment in a position to give the hon. Member the information.

1010 Now I have gathered that information. We are still trying to reorganise and reschedule the whole of the Culture and Heritage Agency. We are still doing that.

But, as it currently stands – and the question was ‘currently’ – that is the information which I have given him, which has existed even before 8th December.

ANSWER TO QUESTION 122 OF 2012						
GIBRALTAR CULTURE & HERITAGE AGENCY EMPLOYEES						
TITLE	FIRST NAME	SURNAME	DEPARTMENT	GRADE	GENDER	NATIONALITY
Mr	Carl	Viagas	Culture/Heritage	CEO	M	BRITISH
Mr	Joseph	Brown	Culture	Technical G2	M	BRITISH
Mrs	Angela	Bula	Culture	Grade 4	F	BRITISH
Mr	Seamus	Byrne	Culture	Grade 4	M	BRITISH
Mr	John	Capurro	Culture	Grade 1	M	BRITISH
Mrs	Diana	Cavilla	Culture	Grade 1	F	BRITISH
Mrs	Doris	Gaduzo	Culture	Grade 1	F	BRITISH
Ms	Yolanda	Plicher	Culture	Grade 4	F	BRITISH
Mrs	Yvonne	Richardson	Culture	Grade 1	F	BRITISH
Mr	Victor	Soza	Culture	Technical G3	M	BRITISH
Mrs	Beryl	Zammit	Culture	Grade 1	F	BRITISH
Ms	Yvette	Zarb	Culture	Grade 6	F	BRITISH
Dr	Jennifer	Bailantine Perera	Culture/Garrison	Grade 5	F	BRITISH
Ms	Jade	Anes	Heritage	Grade 1	F	BRITISH
Dr	Darren	Fa	Heritage	Grade 5	M	BRITISH
Dr	Geraldine	Finlayson	Heritage	Grade 6	F	BRITISH
Prof	Clive	Finlayson	Heritage	Grade 6	M	BRITISH
Mr	Stewart	Finlayson	Heritage	Grade 3	M	BRITISH
Ms	Sylvia	Mifsud	Heritage	Grade 1	F	BRITISH
Mrs	Alicia	Montado	Heritage	Grade 1	F	SPANISH
Mrs	Mane	Mosquera	Heritage	Grade 3	F	BRITISH
Mrs	Annabelle	Revagliatte	Heritage	Grade 2	F	BRITISH

1015 **Hon. E J Reyes:** Mr Speaker, I am a bit surprised with that because, before 8th December, all these persons were already registered at the Ministry of Employment as actually pertaining to the Agency, so at least that basic information should have been quite easily available, given the few days' notice that we gave for the question.

Am I correct in now interpreting what the Minister is saying, that he now intends to review further the structure and the employees to be working from within the Agency?

1020 **Hon. J J Bossano:** Mr Speaker, I think the hon. Member has been misinformed as to the registration of the changes. We are now, in the Employment Service, catching up with a backlog of something like a year, with the Health Authority, of jobs that are no longer there and jobs that have been filled where the records of the Employment Service have never been updated, and that is true of almost all the authorities and all the agencies.

1025 So the information that all were registered with the ETB is not correct.

Hon. E J Reyes: Mr Speaker, can the Hon. Minister now answer the second part of my question, which was, am I correct in interpreting from what he was saying, that he intends to carry out a review and modifications on the number and rate of employees within the Agency?

1030 **Hon. S E Linares:** Yes, sir.

Hon. E J Reyes: And, Mr Speaker, does he have any idea when this exercise will be carried out and by when it will be completed?

1035 **Hon. S E Linares:** Ongoing.

Hon. E J Reyes: It may be ongoing, Mr Speaker – I have asked does he have any idea by when it will be completed?

1040 **Hon. S E Linares:** No, sir.

ENTERPRISE, TRAINING AND EMPLOYMENT

1045 **Widows' and Orphans' Pension Scheme**
Selective voluntary reactivation for civil servants

Clerk: Question 123, the Hon. J J Netto.

1050 **Hon. J J Netto:** Mr Speaker, has the Government informed certain civil servants that the Widows' and Orphans' Pension Scheme has been reactivated on a voluntary basis?

Clerk: Answer, the Hon. the Minister for Enterprise, Training and Employment.

1055 **Minister for Enterprise, Training and Employment (Hon. J J Bossano):** Mr Speaker, I will answer this question with Question 124.

1060 **Widows' and Orphans' Pension Scheme**
Retired civil servants able to opt back in

Clerk: Question 124.

1065 **Hon. J J Netto:** Mr Speaker, has the Government introduced a scheme for retired civil servants who opted out of the Widows' and Orphans' Pension Scheme to opt back in again?

Clerk: Answer, the Hon. the Minister for Enterprise, Training and Employment.

1070 **Minister for Enterprise, Training and Employment (Hon. J J Bossano):** No, Mr Speaker. Once any necessary amendments to the Civil Service Widows' and Orphans' Act have been made, those eligible will be informed.

1075 **Hon. J J Netto:** Therefore, Mr Speaker, when the hon. Members opposite in their manifesto stated, and I quote:

'The Widows' and Orphans' Pension Scheme will *immediately* be reactivated on a voluntary basis for serving civil servants'

was it just a political comment at the time of the election?

1080 **Hon. J J Bossano:** Well, Mr Speaker, it was no more than when they put in their manifesto that a new scheme had been introduced to provide for orphans and widows which, in fact, has not happened. They put in their manifesto that they had already introduced a new replacement scheme, and they *had not* introduced it and they were not telling the truth in their manifesto.

1085 The reality of it is that the immediate provision of the previous WOPS which dates back to 1958 was made on the assumption that we did not need to change any legislation, in order to provide it. There is no evidence that there is a requirement to do this in terms of meeting a demand – that is to say, the position is, if the hon. Member remembers, that when I asked the question about giving people the opportunity to opt back in, the answer that his Government gave me a number of years ago was that there was no evidence that civil servants, in fact, wanted to go back to the old WOPS and that when we had the last debate, the hon. Members opposite at the time, on this side, thought that there was nobody left in the Civil Service, we discovered that there was one person left who was the Clerk of the House.

1090 We are going to do it, simply to make it available, but not because we expect to see anybody actually turning up with the desire to re-enter. I can tell him that the commitment is to go back to the original provisions, which is that people would have to pay 1.5% of their salary and, going on the basis of what was there in 1958, they would have to pay the arrears for all the years that they have not paid, and that those arrears would have to be paid with 3% interest.

The feedback that I have had recently is that, as a result of 100% commutation, there are many people who think they will be better off by commuting, because then they will be able to invest that money and have the *entire* amount of money available for their estate and for their widows.

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So, we are going to do it, because we promised that we would do it, but not because we expect there is going to be any take-up.

Hon. J J Netto: The fact is that he will confirm that it was a political con, because the manifesto actually said it would be done immediately. Three months in Government, you have not done it. You promised something to buy votes from the Civil Service and you have not delivered. That is the fact.

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So can I ask, Mr Speaker, given that he has confirmed that it was a political con (*Interjection*), given that it was him as Chief Minister, when he actually stopped the Widows' and Orphans' Pension Scheme back in 1989, and as a result since then, there have been many civil servants who have gone into employment and now have been in employment all throughout this time, how is it going to work for those particular civil servants to recuperate a number of years for which they have not been able to contribute towards this fund?

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Hon. J J Bossano: Mr Speaker, if we conned the electorate by promising something that apparently nobody wants, then I have to tell him the con that he perpetrated was even bigger, because he actually went with a manifesto saying he had introduced something that had not been introduced. Apparently, it is perfectly alright for him to go and tell people that the Government has already introduced a Widows' and Orphans' Scheme, which in fact was not introduced, was offered to the civil servants, was rejected by the civil servants. It is not there: they were lying in the manifesto when they said they had done it. They had not done it!

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We promised to do it on the basis that there had been representations made to us by retired civil servants and therefore we were committed to do it. I have already told him, as far as we are concerned, when it would be done and the law is changed it will be available with effect from 9th December or available from the day the guy entered because, at the end of the day, what we are saying is that anybody that opted out, or anybody that joined and did not opt in, would be able to opt in. But the hon. Member seems to have forgotten that, for years, they were saying that there was no interest in the scheme, and he seems to be now telling me that we won the election on the basis of offering something that we have not done in the first nine weeks but that we intend to do.

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Hon. J J Netto: Which you said 'immediately'.

Hon. J J Bossano: Yes, and he said he had *already* done it, Mr Speaker! So I said 'immediately' and I have not done it, (*Interjections*) and he said 'done it already' and he was lying even during the Election! (*Interjections*)

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He can only accuse me of not being 100% able to deliver the commitment in nine weeks. He actually lied before the Election by telling people that he had already done something.

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Mr Speaker: Order! Order! Order!

I don't want to interrupt the Minister, but he used the word 'lying' earlier on, and you said 'lying' – (*Interjections*)

Hon. J J Bossano: I am not saying he lied himself, Mr Speaker; I am saying the manifesto on which he fought the election contained a lie, which was that something had been introduced which was not introduced. Now if he thinks it is such a horrendous crime for me not yet to have done in nine weeks what I said I would do immediately, even though it will have no effect, because there is nobody who has retired in those nine weeks who will not be able to opt in, because people will be able to opt in, if they are in service or they will be able to opt in if they are retired. So if somebody has retired in those nine weeks and wants to come and join WOPS, he will still be able to do it. The guys are still alive! Nobody has died in these nine weeks and therefore there are no widows and orphans that have been left high and dry!

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So the reality is the hon. Member is trying to make a big issue of something that is not a big issue because, as happened in his time, there is no evidence that anybody, when we do it, is actually going to take it up. We are going to do it, because we said that we would do it, not because we think there is a huge demand – or *any demand at all* for that matter, and I have told him that, in fact, what I have done – which was also in the manifesto, although not spelled out – is that we have introduced the opportunity for civil servants to commute

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1155 not just 25% of their pension but 100%, and that by commuting 100%, the feedback I have had is that, in fact, people think that that is a better alternative than the WOPS because they do not have to pay anything; they will be able to get a lump sum and therefore if they can get a reasonable return on that lump sum, it may be less than their pension, but if something happens to them, you know the whole of the estate, the whole of the value of their years of service will be available to their widows or their children.

So the fact is that we have put something already in place which probably is better than the WOPS, but we are still going to do the WOPS.

1160 **Clerk:** Question 1–

Hon. J J Netto: Just one more further supplementary.

1165 The Hon. Minister did actually say that he intends to bring about changes to the legislation. Can the Minister indicate by when he thinks he will be in a position to bring those particular amendments to the legislation?

1170 **Hon. J J Bossano:** Well, I cannot tell you, because I do not know how long the people who draft these things take to draft them. They seem to be taking an inordinate length of time for some of the things that I thought could be done almost overnight! So it seems to take long – *(Laughter)*

Hon. P R Caruana: Five minutes! If only it could be done in five minutes! *(Laughter)*

1175 **Hon. J J Bossano:** I thought it could be done in 24 hours! *(Laughter and interjections)* I thought it could be done in 24 hours, because I did not think there was a need to change the law! *(Interjections)* And I simply did not think the law draftsman would take so long to do things that appear to me to be quite simple and straight forward! So I cannot give him a date.

But I can assure him that nobody will actually be prejudiced if it takes longer than I would wish it to take, because there is no evidence that people are queuing up to make use of this.

1180 **Hon. P R Caruana:** Mr Speaker, I think I heard the hon. Member correctly to say that he was reintroducing, in effect, the old WOPS on a voluntary basis, and I will not refer to his comments about our manifesto – not just in our manifesto; the hon. Member will recall that it was in my Budget speech last year, the introduction of the Spouses' and Dependents' Scheme and that, indeed, the legislation was going to be retrospective to the Budget, but for the same reason, there was just not enough legislative opportunity.

1185 But that brings me to my supplementary, which is, in restoring the WOPS – and it remains to be seen whether there is demand for it or not – obviously, some people thought it sensible, even when there was a commutation opportunity – would the hon. Member at least consider one aspect of our proposed alternative Spouses' Scheme, which is to eliminate the discrimination on the grounds of sex? In other words, why should the taxpayer make provision for the surviving spouse of a male civil servant, but not for the surviving spouse of a female civil servant? That is why we changed from 'widows' to 'spouses' on the basis that, otherwise, this was just a facility available to surviving women, but not to surviving men. I do not think it would be too difficult – particularly if the hon. Member thinks that there is not going to be a huge take-up of this – to go that modern, if I could put it that way, in this area, and just make it on a spouses', rather than a widows' basis.

1195 **Hon. J J Bossano:** Yes, Mr Speaker, I am grateful to the hon. Member for bringing that to my attention, and I will bring it to the attention of the draftsman.

1200 **Hon. P R Caruana:** And when he said he was restoring the scheme, has he considered the position of civil servants who have retired already? Will they get the opportunity to pay their arrears, or does he have it in his mind that it would apply only to serving civil servants?

And then, if he goes to existing civil servants, then he has got the question of the surviving widows of deceased civil servants. These are the sorts of issues that we grappled with, when we were aligning... and I am sure he will have to grapple with it, too.

1205 So has he given any thought to whether he would extend at least to retired civil servants who may still be alive?

Hon. J J Bossano: Yes, Mr Speaker.

1210 I answered two questions together and the answer that I gave applied to both categories. There was a question about the current and the retired and I gave one answer to both, on the basis that I am looking at what needs to be done for both – those in service and those who have left. I think what the Government proposed was not implemented, not just because of lack of logistics this time, but because, in fact, it was not found acceptable. So you know, we are committed to what was there before. If, in fact, the proposals of the Government intended to introduce, but were not introduced, had not been done because of lack of time, but had been found acceptable, we would have honoured those, but since they were not accepted –

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Hon. P R Caruana: Could I just add, is the hon. Member aware that what I announced in my Budget speech were not *proposals*; they had been proposals at the time of the Strategic Agreement negotiation with the unions? That agreement was voted down, as he knows. Some of the elements in it were a matter of Government policy and, therefore, in my Budget, I said notwithstanding the agreement, three or four elements of the aborted agreement, was the matter of Government policy going to be approached? The Government does not need the unions' agreement to offer a facility to its employees. Anybody who did not like did not have to take it up, as it was not compulsory.

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So we announced that we were pressing ahead. It was not 'not done' because the unions' agreement was not available – I think the union were quite content with that. At least, they never expressed discontent.

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Mr Speaker: Question then, the Hon. Daniel Feetham.

Hon. D A Feetham: Yes, can I ask the hon. Gentleman – I think I know the answer – but can he confirm that the intention in relation to the Widows' and Orphans' Pension Scheme is to make it applicable only to, effectively, civil servants in the defined benefits scheme and not in relation to the Provident Fund No 2 – the defined contributions – because, of course, the idea was when it was first introduced by the hon. Gentleman that anybody with a contributory pension, obviously, has a fund that their widows would be able to rely upon in case of the husband being deceased. Is that the position?

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Hon. J J Bossano: Yes, the position is that the people for whom the fund was originally... the provisions of the WOPS was originally available were the people of the final salary scheme where, once the pensioner died – and in some very tragic cases it happened very quickly, immediately after retirement – there was a whole life investment which was lost and this was intended to provide that safety net for the widow.

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I think with both the new Superannuation Fund, which can go up to 25% per annum of the salary, and the ones that were already in existence – the No 2 Provident Fund – in those cases there is a cash sum which can be very substantial, and therefore the need to supplement the pension, because the pension is personal to the holder, as it were – it does not really arise in the same way.

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Hon. D A Feetham: But, of course, now that the hon. Gentleman has also said that, in relation to civil servants, they will be able to commute 100% of their pensions, the distinction, which I understood, is irrelevant, because the civil servant will be able to obtain 100% of their pensions and the Provident Fund No 2 or the Guaranteed Superannuation Fund, they will have a final salary existence.

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Does he not think that, therefore, it is slightly illogical for the Government to just make this available in relation to only civil servants, when that distinction really has been blurred by the changes that the hon. Gentleman has indicated the Government will make today?

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Hon. J J Bossano: No, because, in fact, as I have said in my original answer, I would not think that there is any interest or demand for this, partly because the alternative is better. That is to say, if somebody is able to leave £100 million to their widow, why would they want to be spending 1.5% of their income every year?

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So I have made it very clear that this is not being provided as something for civil servants because we think the civil servants require it or want it. We are doing it because we said we would do it, but we do not expect that there will be a demand. If we find that there are people who want to pay that on top of paying to be in the Provident Fund, we will consider opening it, but I think once we move in this direction and have it available, we will see what interest there is.

We have got no problem with making it available to more people because the whole thing is funded by the contributor, not by the Government. The Government does not put any money into this.

1265 **Hon. D A Feetham:** The hon. Gentleman has just simply, in the answer he has given, proved the point that I was making in the question: that really, given that the civil servants are being allowed to commute 100% of their pensions as a lump sum, the rationale for introducing a Widows' and Orphans' Pension Scheme in the first place really will not exist, because those civil servants...

But anyway, Mr Speaker, does the hon. Gentleman know, on average, how many civil servants have retired over the last four years?

1270 **Hon. J J Bossano:** I do not know on average how many have retired. I know, from the questions that I have asked the previous Government, that the average is about 150. So that would have been about 600 in four years.

1275 **Hon. D A Feetham:** Has he also done the calculations in relation to, say, for example, a civil servant who retires on a final salary of £30,000, how much the Government has to pay in relation to the commuting of 100% pension – the allowing of the civil servant to take 100% of their pension as a lump sum? Has he done those kinds of figures, in order to determine what kind of liability the Government is exposing itself in relation to retiring civil servants for the next four years, for example?

1280 **Hon. J J Bossano:** Well, Mr Speaker, I would not call it a liability – what we have done is what we think is the right thing to do, which is to give them the same opportunity to convert their pension into a lump sum that is going to be included in the new superannuation fund and is already there in the others. We believe that they should have that choice and that they should be given that choice.

1285 We have not calculated and we cannot calculate because in fact so far, nobody has asked for more than 25% commutation. We will have to see how many people want it.

1290 **Hon. D A Feetham:** Well, 25% commutation, of course, because those are the existing rules and you have only been in office for two and a half months. (*Interjection*) But surely, the hon. Gentleman and the Government must have given some thought as to the bill that the Government is going to be picking up over the next four years by actually agreeing to pay 100% commutation of civil servants' pensions up front. That was not the position so far. Now, have you given any thought at all to that?

1295 **Hon. J J Bossano:** I mean, I don't know, Mr Speaker, whether the questions in Parliament which require me to produce information also require that I have to share with the hon. Members opposite what I think, the things I have given thought to or not given thought to.

I can tell him that I am satisfied that if every civil servant decides to commute, the costs can be met.

1300 **Hon. D A Feetham:** Is the hon. Gentleman aware that, for example, in relation to a civil servant that retires on a final salary of £30,000, the Government is actually looking at a bill of £600,000. Is he aware of that? Just one civil servant.

Hon. J J Bossano: What I am aware of is the fact that the hon. Member is against this policy.

1305 **Hon. D A Feetham:** No. I have not said that. I am asking questions of the Government as to whether they have given sufficient thought to this particular policy and I am quite entitled to do that because of course... Is it the position of the Government that if it is going to be paying commutation of pensions, over £½ million for 20 civil servants every single year for the next four years...

1310 Does he not accept that, in the light of that, that their arguments in relation to public finances simply do not stand up to closer scrutiny and the public finances of Gibraltar cannot possibly be as bad as the hon. Gentleman and the Government opposite claim to be when, in fact, you are agreeing to provide and pay this amount of money to civil servants up front.

1315 **Hon. J J Bossano:** The answer is that I do not accept anything he has said and that he is wrong in thinking that the cost will be what he claims the cost will be or that there will be a difficulty in financing it. There is a method of financing which will not produce the result that the hon. Member thinks. The fact that he does not know how to do it, that is his misfortune. I am not here to explain to him how these things are going to be done.

I can tell him that it can be done and that if everyone wants to take it up it will be done in a way that does not produce the results that he claims.

1320 **Hon. P R Caruana:** Mr Speaker, is the hon. Member able to confirm whether, in respect of existing civil servants to which I have understood he is going to make this facility of 100% commutation available, the commutation calculation will be on the same basis as they can presently commute part of their pension? In other words, the pension is calculated, and that this is not... the hon. Member is not planning some sort of net present value of a future annual entitlement.

1325 If it is as I am assuming it is – subject to what he may tell me when he gets up – if it is a simple extension, in percentage terms, of the present permissible commutation, would the hon. Member agree with me that, on the assumption that – which is an assumption – but on the assumption which he believes to be likely to happen, that all civil servants opt for this, the actual cost of it can be relatively easily calculated because, if we know the number of civil servants that retire, we know roughly what the annual cost is of gratuities – which is just another word for the permissible degree of commutation at present – and we just increase that to 100% we know by what factor the present gratuity bill would increase in any year, assuming that there isn't an odd year here or there? It seems to be more or less static, so that the hon. Member has a pretty good idea of how much it would be and that it could be very considerable indeed.

1330 In other words, if he takes the present commutation bill he can extrapolate, by increasing the percentage of permissible commutation what the per annum, in capital cost, if I could call it that, would be. Although I know that he likes to do financial striptease acts, I just do not see how, for existing civil servants – for *existing* civil servants – I can see how, in the future, the Government make an arrangement of creating a fund to fund this, but for existing civil servants I have to admit that I have to join my friend the Hon. Daniel Feetham in the crowd of people who do not see how this could be funded by anybody other than the Government in respect of existing civil servants. I mean, for example, if there is a civil servant who retires the day after he announces this policy, he implements this policy, the cost of *his* 100% commuted policy can only be funded by the Government and not by anybody else.

[Technical interruption]

1345 **Hon. J J Bossano:** I can confirm that there is no change in the methodology of calculating the commutation. That is to say we have already, we have already changed the regulation so that it is already the case that there is no longer 25% in whatever the regulation is and it now says 100% and I can tell him that there *is* a way of doing it that will not have the result that he predicts and that he will see that when he sees the estimates.

1350 *[Technical interruption]*

Social Security Old Age Pension Equalisation at 60 for men and women

1355 **Clerk:** Question 125.

1360 **Hon J J Netto:** Mr Speaker, when will the Government be able to pay the Social Security Old Age Pension at 60 for men and women?

Clerk: Answer, the Hon. the Minister for Enterprise, Training and Employment. Question 125.

1365 **Minister for Enterprise, Training & Employment (Hon. J J Bossano):** Mr Speaker, the Government expects to pay the Social Security Pension at the age of 60 for men and women when it becomes compulsory under EU law – before 2020.

Hon J J Netto: Does the Government have any indication whatsoever when they *intend* to do it, given that it is their policy?

1370 **Hon. J J Bossano:** Mr Speaker, the policy is to introduce a new pension scheme on 1st July, and that new pension scheme on 1st July, because it is a new pension scheme under EU law, will have to provide for the

people that joined that new one to be eligible when they are 60.

1375 **Hon J J Netto:** Could I ask whether what he is actually saying is that European legislation specifically states that the equalisation has to be at 60 or is it that the European legislation specifies that individual Member States can exercise a level of equality at whatever age they see is fit to do it for that particular jurisdiction?

1380 **Hon. J J Bossano:** The hon. Member is correct in saying what is required is equalisation and therefore it would be possible to meet the EU law by increasing the age of retirement for women, and making them both 65, or by doing what some people have done which is to do it at 63 and bring the men down 2 years and put the women up 3 years. The policy which we announced many years ago, to which we still subscribe, is that the equalisation be done at 60.

1385 **Hon J J Netto:** So I take it, then, that the view that the Government takes is that they will equalise at the age of 60 whenever they are told by the European Union we have to equalise and therefore we will equalise at 60 – which is sometime... you mentioned... sorry?
2020

1390 **Hon J J Netto:** 2020, so I suppose it is quite far away from now? That's alright

Hon. J J Bossano: Okay, thank you.

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**DSS monthly expenditure reports to Financial Secretary
Availability from September 2011**

1400 **Clerk:** Question 126, the Hon J J Netto.
[Technical interruption]

1405 **Hon. J J Netto:** Mr Speaker, is the Government now in a position, following their rethink of last month, to provide a copy of the monthly expenditure returns report from the Department of Social Security to the Financial Secretary commencing from September 2011 to date.

Clerk: Answer, the Hon. the Minister for Enterprise, Training and Employment.

1410 **Minister for Enterprise, Training and Employment (Hon. J J Bossano):** Mr Speaker the Government has decided that they will not be providing this information.

Hon. J J Netto: Mr Speaker, can I ask on what basis?

1415 **Hon J J Bossano:** Well, on the basis that, as far as the Government is concerned, this is information that is required for the controlling officers to do their job and transmit that information to the Financial Secretary.

1420 Ministers are not getting this information, have not been offered it and are not seeking it. When I used to ask for information on the progress of Government revenue and expenditure – I used to ask for it once every 6 months. – I only asked for heads of expenditure. I did not ask for sub-heads and the hon. Member opposite used to tell me I would have to wait a couple of months to get it, and I did. So I think it is not a reasonable thing to produce, basically, the equivalent of the estimates book with every single sub-head every month. We are not seeking this for ourselves: we think it is a job for the controlling officer and for the officials, not for the politicians.

1425 **Hon. J J Netto:** Well, Mr Speaker I have to say that is a very poor excuse for not giving information. I mean the fact that it is a report being done by the controlling officer to the Financial Secretary, right, that doesn't mean that all of us in this legislature, we are not participants of the whole process, because we are the ones in fact who have to vote for the Appropriation Bill right? The fact of the matter is that this is a report that

1430 costs no effort whatsoever to pass a copy to other Members of the Opposition. The extent of the effort that is
required is that when the Executive Officer has to print 2 copies – one for the Department and one for the
1435 Financial Secretary, the Executive Officer will print a 3rd copy, put it into an envelope and pass it to the
Member of the Opposition. So it requires no effort whatsoever, so the hon. Member cannot say that this will
produce some kind of disproportionate amount of effort in being able to produce it. It is being done
systematically every month and all that is required is sending one extra copy to the printers. He is just being
difficult in not passing information. It is the classic attitude that the Members have of not being transparent,
particularly him, it is the philosophy of I only have the information, and I am going to be damned if anybody
else is going to have the information. It is simply his typical character of not allowing people to be given in
this Parliament necessary information and the Chief Minister actually should tell the Minister for
Employment that if he wants to take credit for transparency this is the place where he should do it.

1440 **Mr Speaker:** There is no question there.

Hon J J Bossano: Notwithstanding the fact that he has not asked me anything, Mr Speaker, (*Laughter*) I
have to tell him that if he attaches so much importance to this, for 15 years they haven't done it! They haven't
volunteered to provide all this information to the people of the Parliament for 15 years. I don't think it is
1445 *desirable* for every single month and every single penny and every single change in this book to be made
public. We are not seeking it for ourselves. We are not asking for it and therefore it is something that was
introduced by the previous administration, apparently, which certainly did not exist in 1996. Therefore, if the
hon. Member thinks it is now desirable to do it, if he ever gets re-elected he can volunteer to do it.

We have taken the policy decision on this, and this is the policy decision, but I need to remind him that, in
my original answer, I pointed out that I used to be satisfied with much less than he is asking – I asked once a
1450 year for total heads of revenue and expenditure to be provided to me and, when I asked for it in October or
November, I usually got told that I had to wait until December because that is how long it took to put the
information together. From what he is telling me, what I was being told in the House, it was not true – it was
readily available all the time, at the end of each month in much more detail than I was asking!

1455 **Hon. P R Caruana:** Mr Speaker, I am sure the hon. Member would agree with me that the right of this
Parliament to information, and a right to ask for information, it may or may not be mirrored by their right to
deny it to us. But our right to seek information is not curtailed or circumscribed by the information that they
saw fit to ask for when *they* were on this side of the House. Had that been the case, then in 1996 there would
1460 not have been an explosion in the increase in information, compared to before. In other words, if every
incoming Parl.. if every incoming Government were to say I won't provide you with information that I did not
used to ask when I was in Opposition, and that went on and on and on, then there would never be any increase
in the amount of information as we presided over.

But, in any event... so, Mr Speaker, we do reserve, on this side, the right to ask for information, whether
they saw fit to ask for it before or whether, indeed, the Government spontaneously offered it before. The
1465 Government does not spontaneously offer information. But can I say, because the hon. Member said in his
last answer that they had taken a policy decision that they did not think it appropriate for this information to
be handed out monthly, would it assist the hon. Member in coming to a different conclusion if we were to ask
for it less frequently than monthly, say quarterly or something like that.

I tell you what the purpose... I suppose why my colleague is seeking the information and, indeed, why we
1470 introduced the system in the first place – this was a means of allowing the Government and, therefore,
Parliament to monitor the likelihood that a Department would overspend before the year end, if by, you know,
calculating their monthly outgoings you could predict whether a Department would run out of voted funds
before the end of the financial year, and this was a means of budgetary control.

Now, I can understand that the hon. Members may not want to give us that information monthly because, I
1475 don't know, any number of reasons I can think of that might create a rod for the giver's back. Would it help if
it was asked for less frequently, say quarterly or something like that?

Hon J J Bossano: Mr Speaker, the issue is not the frequency with which the information is delivered but
1480 the degree of detail – because when he is talking about the value of this information in predicting the result,
that is precisely what the information I sought from him was doing because, at the end of the day, if you have
got a head of expenditure which has got expenditure of £20 million that is then broken down in to 200 sub-

heads, where one sub-head is going up and another is coming down, it is completely irrelevant to the prediction as to whether the £20 million that had been voted is going to be exceeded or not.

1485 When I used to ask him for the information at the end of September it was precisely to get an idea of whether the level of spending in the first 6 months of the year which he always used to remind me was no indication to the eventual outcome. He always preceded his answer to be by saying (*Interjection by Hon. P R Caruana*)

1490 **Mr Speaker:** Order! Order!

Hon J J Bossano: Well, the answer is not about being quarterly, it is the fact that you are asking not has the £20 million been spent in the first month or three months, or sixth months and therefore we are likely to overspend the 20 million but ‘are you spending more on paper clips and less on rubber bands every month?’ That level of detail is not about controlling over expenditure.

1495 If you want to know about controlling over expenditure then you ask whether the budget of the Department is likely to be exceeded and that simply requires the figure which we vote because, at the end of the day, as the hon. Member knows, when we vote a head of expenditure the Financial Secretary can, in any case, authorise movement from one sub-head to the other. But the ultimate figure that matters is the headline figure, it is the fact that you are asking for every single line of the book to be provided either monthly or quarterly... (*Interjections*)

1500 **Hon. J J Netto:** If the hon. Member would give way just a minute...

1505 Mr Speaker, the hon. Member seems to be giving the impression that the report I am seeking to have may contain 200/300 pages. The report I am seeking would have 10 pages of information.

Hon J J Bossano: No, that is not correct – it may only contain 10 pages in respect of the one he is asking me about the Department in which he used to be but if we do it for everybody – presumably he is not saying ‘can I be the one that is given this information and don’t give it to anyone else in the Opposition?’ In each Department that is what he is asking for that Department. It means the whole book.

1510 Yes, it does, because when he waved that piece of paper at me at the last meeting of the House, I went back and asked to be given a copy of it because I had not seen it. Then what I saw was that, in fact, it was the change in the first month, with seven columns showing every single item in the sub-heads, how they had gone up and down, and now, if you do that for the whole book, it means you take the approved estimates voted by the House with every single sub-head and every single movement up and down and every single prediction based on every single movement, and that is seven more columns.

1515 That system, which *they* introduced to have an effective running total, the internal accounts of the Government... That is what he is asking for, the whole internal accounts of the Government. I remember, at one stage, the Hon. Leader of the Opposition, as Chief Minister, told me on one occasion about some information that I was asking for the Government... to give him a copy of everything that goes through the Treasury and the Accountant General. Well, that is exactly what is being requested now.

1520 It is something that we are not seeking because he might have had... I doubt that he had the time, frankly, to go through all this mass of figures when he was here, but certainly I cannot think of any of us that have got the time to even look at this thing, never mind scrutinise it on the basis to try and make some kind of political judgement as to whether too much money has been spent in one month, as opposed to the other.

1525 But, at the end of the day, the point that I make is that the argument about the control of public spending, which is the role of the Government and, indeed, the role of the Parliament, is met totally by the figure that you vote for the heads. So if you vote £20 million for Social Services and we are finding that we are spending more money on social assistance and less money on something else, at the end of the day that is all in the final figure. The estimates only need to be supplemented, either through a supplementary appropriation sub-head at the end of the estimate or by bringing a Supplementary Appropriation Bill. If the head is exceeded within that head, heads of department and controlling officers and the Financial Secretary have got the freedom that, if they overspend on one sub-head and they have got under-spending in another one, they can vire the money from one sub-head to the other and do it.

1530 So, the controlling of the Parliament and the controlling of the Government is on the basis that the overall budget and the budget per Department should be adhered to and be as close as possible to the approved estimate. We accept that that is the rule, but not that every time somebody says, ‘Well, look, this month we

1540 have had a lot of people seeking supplementary benefit'... Well, if he asks about supplementary benefit, he gets the information, but we do not accept that it is desirable for either *us* to all be involved in doing all this figure work, or indeed for all that to be put in the public domain and open up the entire movement of every penny in and out of every Department on every item. It has never been done before. I do not expect it will ever be done. It never occurred to us to ask for it and I doubt very much whether they would volunteer to do it if they were ever back here.

1545 **Hon. P R Caruana:** Mr Speaker, if I am correctly understanding the hon. Member, his position is this – is it ?– the information *can* be provided and it is available, without the usual parliamentary reason of disproportionate administrative effort, but the Government does not consider it *appropriate* to give that information to the House, on the basis that they think it is too detailed, or too transient or too unforensic about anything that the House should be interested in?

1550 **Hon. J J Bossano:** It is as I have explained. What I can tell him is that the Government can provide him with more than he provided to us, in the sense that he thought asking for the figures more than once a year, on the totals for the six months, was asking for too much. We are happy to give him the totals every month,

[Technical interruption]

1555 but the detailed breakdowns he is asking for

[Technical interruption]

1560
The House recessed for 15 minutes from 11.00 a.m. to 11.15 a.m.

1565 **Clerk:** Mr Speaker.

Hon. J J Netto: Mr Speaker, just before we go on –

Clerk: We were on Question 126.

1570 **Mr Speaker:** Yes, the Minister for Employment was cut off in mid stream, with apologies. Do carry on.

The Minister for Enterprise, Training and Employment (Hon. J J Bossano): Well, I think the main stream has dried up! I will leave it where I left it.

1575 **Hon. J J Netto:** Mr Speaker, clearly the Government is not going to change its policy decision in providing me with a copy of the monthly report, no matter how reasonable my argument is.

1580 The fact is that the policy decision is only intended to silence me in my ability to ask questions to the Member opposite on matters of financial control in the Department of Social Security, which is a matter for which we all collectively have responsibility by voting the Appropriation Bill but, whatever the argument, he has decided he is not going to give me the information. He thinks he can silence me as a result of that.

1585 I think it is a sad day for Parliament. It is a sad day for democracy. It runs totally contrary to the image that the Chief Minister is trying to portray of transparency and, quite frankly, I have to tell the hon. Member that, whilst I cannot *force* him to give me the information, right, I will certainly continue in different ways to get the information.

Mr Speaker: One moment.

I must remind the Hon. Mr Netto that they have to be questions. One cannot end a mini-debate on a question, followed by supplementaries, with a parting shot of a statement. There has to be a question.

1590 The Hon. the Minister for Employment, do you want to say anything?
We move on to the next Question.

**Disability Allowance
Withdrawal from those entering employment**

1595 **Clerk:** Question 127, the Hon. J J Netto.

Hon. J J Netto: Mr Speaker, when does the Minister for Social Security and Employment intend to withdraw the Disability Allowance from disabled persons who are in employment, in accordance with their GSLP/Liberal manifesto?

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Clerk: Answer, the Hon. the Minister for Enterprise, Training and Employment.

Minister for Enterprise, Training and Employment (Hon. J J Bossano): Can I just point out to the hon. Member that he is misquoting the GSLP/Liberal manifesto but, of course, it is not his manifesto, so he probably is entitled to say what he likes about it.

1605

The position is that, under the present administrative arrangements, that have been there for a very long time, a disabled person's Disability Allowance had until now been completely withdrawn when the disabled person commenced full-time employment. The Government intends to reduce the disabled person's Disability Allowance on a staggered basis, instead of all at once, and this will not commence until the second month in employment. So in the first month there will be no deduction from the Disability Allowance.

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Hon. J J Netto: Mr Speaker, the hon. Member says I am misquoting the hon. Member. What the manifesto says is:

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'When disabled people in receipt of Disability Allowance start work, the Allowance will be withdrawn on a staggered basis.'

So, whether staggered or not staggered, you are saying – the people in the Government today were saying at the time that it was going to be withdrawn.

1620

That is what actually prompted my question.

My supplementary question, Mr Speaker, given that the hon. Member seems to be saying that it is going to be on a staggered basis, will this take into account the fact that, by doing such a process, some disabled people could be out of pocket, because some disabled people, by the nature of the disability, may have to either periodically buy certain equipment, certain services which they need to have, which some of them, in some cases, are expensive in nature? One of the things that can actually happen is that a disabled person can get a job, hopefully, and start drawing an income, as a result of that particular job, then start losing the Disability Allowance on a staggered basis, and then find himself financially in a much worse situation than before.

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So should not the Government then consider that by simply having a process that does not take into account the circumstances of the disabled person, that particular disabled person might be worse off?

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Hon. J J Bossano: Mr Speaker, the reason why I drew the hon. Member's attention to the original question is that the original question said 'intend to withdraw', as if, in fact, it had never been withdrawn in the past! Is it that he does not know that, when he was in office, it was withdrawn immediately and that what we are doing is an improvement on what existed, and that we are now going to do it in stages?

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That is the point that I am making in my original answer. We are actually saying the administrative system that has been there, not just when he was in Government, going all the way back – it has always been there – was that the Disability Allowance ended when you got your first pay packet. We are now saying it will not end when you get your first pay packet. In the second month, so as to make sure that you are not caught between two stools, given that the Disability Allowance is paid up front, and the wages are paid with retrospection, normally, you could actually finish up removing the allowance before you get paid. That is not the intention and, therefore, we do not want that to happen.

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In the second month, the position is that we will introduce a system where we do it in stages, so that you do not have the abrupt shift, and the adjustment for the person will be gradual.

If, indeed, there are any cases such as the one that is mentioned, then I will certainly make sure that the people that manage these payments are aware of that risk and bear it in mind in the nature of the stages.

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But all I can tell him is that I do not believe that can be very common because, otherwise, it would have shown up when the allowance was being eliminated immediately. If somebody gets employment and they lost

the allowance immediately then, by definition, if the allowance was more than the pay, the guy will simply give up his job and go back to the allowance – he will be better off!

1650 **Hon. J J Netto:** But, in actual fact, Mr Speaker, the allowance was not withdrawn, neither in the four years I was as Minister, and perhaps he might even notice himself, but when... I think I have got it here, actually – yes, in response to a Written Question, Question 20 of 2012, when I asked ‘Can the Minister for Social Security state how many persons were in receipt of a Disability Allowance, blah, blah...?’ at the bottom, it says:

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‘As of 30th January 2012, 162 persons are currently in receipt of Disability Allowance, of which six are in long-term employment and 15 in supported employment.’

1660 So we know there have been at least six disabled persons in long-term employment. I do not know how long they have been, but certainly for a long while. So, what I am saying to the hon. Member is that, even in relation to these ones, already in long-term employment, if they start removing the Disability Allowance, they could find themselves out of pocket as a result of the introduction of this policy by the new Government.

1665 Presumably, as the hon. Member seems to be suggesting, before actually taking away the Disability Allowance, they will look at the circumstances of both these six and the other... I cannot remember the number now – the other 15, before such a decision is taken. Is that the case?

Hon. J J Bossano: Well, the case is, Mr Speaker, according to the people who run the system, there is an arrangement where part 5, article 15(3), states:

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‘The payment of the allowance shall be suspended if the disabled person is employed in full-time employment.’

1675 Therefore the advice that I have been given is that if people have full-time employment, they lose the allowance. I would have thought that if the allowance was more than the full-time employment, nobody would be encouraged to go into full-time employment, to be actually worse off than they were when they were getting the allowance.

1680 The purpose of the exercise that we are introducing now is to make sure that people are not worse off as a result of employment than they were before. We are going to do it in stages, and I will make sure that those who operate the stages will never allow a stage to be reached where people are actually in the red as a result of employment. The point that is made – I have noted it and I will make sure that those people take that into factoring the way the stages operate, so that, you know what he thinks, could happen if we are not on the look-out for it, might happen, and I will make sure that it does not happen.

1685

**Unemployment benefit
Resident applications by nationality and industry**

Clerk: Question 128, the Hon. J J Netto.

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Hon. J J Netto: Mr Speaker, can the Minister for Social Security and Employment state how many resident persons applied for unemployment benefit in the month of January 2012, broken down by nationality and industry group?

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Clerk: Answer, the Hon. the Minister for Enterprise, Training and Employment.

Minister for Enterprise, Training and Employment (Hon. J J Bossano): Mr Speaker, I hand over to the hon. Member the list giving him the information he has requested.

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Hon. J J Netto: Mr Speaker, if I may, in relation to the figures given in the first particular column, under ‘Construction’, we have 11 British, 7 Moroccan and 2 Spanish: will the Minister indicate whether these particular persons who receive unemployment benefit are mainly from the various subsidiary companies that were attached to GJBS? Does he know that, from the information he might have available?

Answer to Question 128 of 2012

The following table shows the number of resident persons who have applied for Unemployment Benefit, broken down by nationality and industry group, for the month of January 2012:

Industry Group	British	Moroccan	Spanish	Other EU
Electricity and Water Supply	1	-	-	-
Construction	11	7	2	-
Wholesale and Retail Trade	10	1	1	1
Hotels and Restaurants	6	2	-	-
Financial Intermediation	3	-	-	-
Real Estate and Business Activities	11	1	-	-
Public Administration and Defence	4	-	-	-
Health and Social Work	2	-	-	-
Other Services	10	-	1	-
Total	58	11	4	1

1705 **Hon. J J Bossano:** Well, Mr Speaker, I have not asked the Department to provide me with the names of the people who were receiving unemployment benefit but, in fact, I would say that a turnover of 21 persons in the construction industry in one month is probably normal.

1710 There is, as the hon. Member must know, a constant taking on and laying off of people in all the construction sites. So there is no particular reason why these 21 should have come from subsidiaries of GJBS on Government projects if... in fact, I think most of the people who were laid off were frontier workers and will have claimed unemployment benefit on the other side, where it is considerably higher.

1715 **Statutory Benefit Fund**
January payments arising from an insolvent employee

Clerk: Question 129, the Hon. J J Netto.

1720 **Hon. J J Netto:** Mr Speaker, can the Minister for Social Security and Employment state what payments were made out of the Statutory Benefit Fund for the month of January 2012 arising from the insolvency of an employee?

Clerk: Answer, the Hon. the Minister for Enterprise, Training and Employment.

1725 **Minister for Enterprise, Training and Employment (Hon. J J Bossano):** I will answer the question with Question 130, Mr Speaker.

1730

**Statutory Benefit Fund
January payments arising from employers' insolvency**

Clerk: Question 130.

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Hon. J J Netto: My colleague seems to be saying that I misread the word 'employer' for 'employee', so anyway...

Clerk: Question 130.

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Hon. J J Netto: Mr Speaker, can the Minister for Social Security and Employment provide a statement of the payments made from the Statutory Benefits Fund in respect of employers' insolvency in the month of January 2012, showing the amount paid due to redundancy pay obligations, the amount paid in respect of other sums payable to employees, the number of companies involved, the industry group affected and the number of beneficiaries that are either residents or not?

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Clerk: Answer, the Hon. the Minister for Enterprise, Training and Employment.

Minister for Enterprise, Training and Employment (Hon. J J Bossano): Mr Speaker, happily, there was no insolvency of employers in January 2012, so no payments are to be made.

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Clerk: Question –

Mr Speaker: No, the Hon. Jaime Netto.

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Hon. J J Netto: If there was no insolvency, when does the...? I suppose that the demise of the subsidiary company of GJBS might have occurred in December then. Is that the case?

Hon. J J Bossano: No subsidiary Government company has been declared insolvent. (*Interjections*) Any payments that were due to them were paid by the company.

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**Social assistance
Numbers and breakdown of January claimants**

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Clerk: Question 131, the Hon. J J Netto.

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Hon. J J Netto: Mr Speaker, can the Minister for Social Security and Employment state what was the number of persons receiving social assistance at the end of January 2012, giving a breakdown by age and sex and showing periods in receipt of social assistance broken down in groups of less than three months, four to six months, seven to twelve months, between one to two years, two to five years, five to ten years, and over ten years?

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Clerk: Answer, the Hon. the Minister for Enterprise, Training and Employment.

Minister for Enterprise, Training and Employment (Hon. J J Bossano): Mr Speaker, I now hand over to the hon. Member the list giving the information that he has requested. [*see following page*]

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Hon. J J Netto: Mr Speaker, I notice that part of the information at the bottom is that the breakdown I am seeking to have in those particular periods of time cannot be made available because of the computer database system that they have. Is it something they have that... the software system that they have and the way they record the information can be made available at a future date, perhaps?

Hon. J J Bossano: Apparently not, from what they tell me. When they input a figure, the previous figure

1785 disappears, so with the Microsoft Excel spreadsheet, they can only provide the information on the day that they access it, but they do not have any historical record of what it was a month before or two months before, three months before, and that is the system they have been using all the time.

1790 I do not know whether there is an alternative programme that they can use which would keep the historical data. There is no objection politically to them changing the system if they can think of another system that provides the information and can show... But the only way, it seems to me, from the way the explanation has been given to us and to him is that, clearly, only by getting the figures every month can you tell from one month to the next what the totals have changed. But that does not tell us whether the 531 total people on supplementary benefits at the end of January were the same as the month earlier, even if the figure is the same. So even if the figure has changed from one month to another, the changes could be new people getting social assistance and other people getting employment and no longer getting social assistance, because the time that they have been on it is not provided.

1795 I think it can be done manually but, of course, that would mean going through 531 one by one.

Answer to Question 131 of 2012

Persons receiving social assistance at the end of January 2012 by month, age and sex.

	Age 18-25	Age 26-35	Age 36-45	Age 46-60	Total	Males	Females
Jan-12	87	136	136	172	531	200	331

I am informed by the department that the information requested with regard to how many of the above listed persons have been receiving Social Assistance, broken down in periods of less than 3 months, 4 to 6 months, 7 to 12 months, between 1-2 years, 2-5 years, 5-10 years and over 10 years, cannot be provided due to the information not being held in a dedicated computer database system. This information is held in an MS Excel spreadsheet which does not retain historical information.

1800 **Hon. J J Netto:** No, Mr Speaker, I am not suggesting that the work should be done monthly, but I think, at the very least, that if the Minister can perhaps take a policy decision and, in future, it can be changed, obviously that would be welcome.

1805 The other way perhaps, thinking aloud, that can be done is because if the Department of Social Security have the printout at the end of the month on the question he is asked, and that particular printout with names is given to your own staff at the Ministry of Employment, actually, they, I do believe, can provide figures for those particular breakdowns between those particular months and years, at least for those people in social assistance who are registered unemployed.

1810 In other words, if there were to be some communication between your staff in Social Security and your staff in the Employment Department, for the purpose of saying, well, Social Security cannot go retrospectively but certainly they can have a printout, send it over to Employment and, given that Employment do have the software programme which is not labour intensive, then they can do it, inasmuch as those who are registered unemployed and getting social assistance... It may not give me the whole picture of everyone in social assistance, but it would probably give me a good, fair, accurate picture for a lot of them.

1815 **Hon. J J Bossano:** I do not think that would produce the result the hon. Member...

1815 First of all, I think the numbers that are actually registered unemployed are of the order of 10%. So we might be talking about 53 out of 530. Secondly, even if we were able to say to the hon. Member for how long the 53 had been unemployed, it would not necessarily follow that all the time they had been unemployed they had been getting social assistance. There is nothing in the Profile 2000 program that tell us if people are on social assistance or not.

1820 So I think, short of changing the programme from Excel to something else, I do not think it can be done. It is either that or manually, as far as I can tell.

Hon. J J Netto: But the 2000 programme can be amended to incorporate that, surely?

1825 **Hon. J J Bossano:** I do not know whether it can or not. I mean, he is the one who introduced it in 2000! I am told it is something nobody uses any more, and the one guy that is left that understands it has to be brought out from London every time something has got to be done to it! So I am not very sure how much longer we are going to be using that, frankly.

1830 I would prefer to find a way in which a programme that is not specifically written for us in the Department but one that many people can share could be made more useful than what we have got at the moment. I think the best thing to do is to ask people to look to see if they can produce a system in the DLSS that can give them a breakdown of how long people have been getting social assistance, because I think it is useful information for them there – quite apart from the Employment Department.

1835 **Hon. J J Netto:** So do I take it, then, that the hon. Members is going to request that to the Department of Social Security?

Hon. J J Bossano: I am going to ask them to look into whether it can be done. I do not know enough about computer programming to be able to say that it can be done.

1840 **Hon. J J Netto:** I am grateful, Mr Speaker.

1845 **Future Job Strategy**
Employment Training Company participants

Clerk: Question 132, the Hon. D A Feetham.

1850 **Hon. D A Feetham:** Will the Minister for Employment confirm whether there are any individuals employed by Employment Training Company Ltd as part of the Future Job Strategy on 11-month contracts, and if so, how many?

Clerk: Answer, the Hon. the Minister for Enterprise, Training and Employment.

1855 **Minister for Enterprise, Training and Employment (Hon. J J Bossano):** I will answer this question with Questions 133 and 134.

1860 **Future Job Strategy**
Transferees into Employment Training Company

Clerk: Question 133.

1865 **Hon. D A Feetham:** In relation to any employees employed by Employment Training Company Ltd as part of the Future Job Strategy on 11-month contracts, how many of these were transferred to that scheme from existing training schemes, where their training contracts exceeded 11 months?

1870 **Employment Training Company**
Management structure

1875 **Clerk:** Question 134.

Hon. D A Feetham: Can the Minister for Employment explain the management structure of Employment

Training Company Ltd, and whether anyone has been employed to run that company?

1880 **Clerk:** Answer, the Hon. the Minister for Enterprise, Training and Employment.

Minister for Enterprise, Training and Employment (Hon. J J Bossano): Mr Speaker, the number of employees in the company with contracts of up to 11 months is at present 270, none of whom were training on contracts that exceeded 11 months. There are no managers employed by the company.

1885 **Hon. D A Feetham:** Sorry, I did not quite get the last bit.

Hon. J J Bossano: There are no managers. The company employs just the trainees, nothing else.

1890 **Hon. D A Feetham:** May I ask the hon. Gentleman to actually check, go back to his officials in his Department, because I know of at least one person who was on a three-year training contract in relation, in fact, with the Training and Construction Centre as part of the European Structural Fund Vocational Training Scheme on a three-year contract and now he has been placed on 11-month contract. Would the hon. Gentleman undertake to go back and re-check with his officials whether that is the case?

1895 **Hon. J J Bossano:** Mr Speaker, all the people that are in training, other than in employment placements – that is to say, the people who are doing nurse training, construction training, Gibdock training – all those will continue beyond 11 months. The 11 months are just related to their wages from the employment which replaces the previous allowances. Therefore, everybody currently is on 11 months. In fact, it does not mean that people at the end of the 11 months will lose their income; it just means that is how the company has been set up initially, and we expect the bulk of them to be in other permanent jobs *before* the 11 months and there will be a movement of people in and out of this company.

1900 But the apprenticeship schemes that go beyond the period that this contract is for continue in place. That has not changed.

1905 **Hon. D A Feetham:** With respect to the hon. Gentleman, he has not answered my question.

I asked my original question. Your answer was ‘there is nobody that is now on 11-month contract that was, in fact, on more than 11 months before they were placed on 11-month contract.’ What I am suggesting to you is that, in fact, I know of one individual who had a contract for three years with the Construction Training Centre and now has been shifted to 11-month contract. I am asking the hon. Gentleman – it is not contentious – whether he will go back to his officials and check the position.

1910 **Hon. J J Bossano:** I do not need to go back and check, Mr Speaker. The information that I have is that the people who were in the Construction Training Centre getting £450 did not have a contract saying ‘you will get £450 for three years’. They had a training contract with the Centre and their pay, which came from Bleak House, was not on the basis that that was their pay for three years. Therefore, the contract that gives them £912 has replaced the payment they were getting of £450, which was not guaranteed for three years, or one year or at all.

1915 **Hon. D A Feetham:** Well, I am not trying to be controversial. When I am going to be controversial as, in fact, will be the case later on, no doubt, the hon. Gentleman is going to blow a gasket!

1920 Does he not accept that there is a difference between the position of somebody earning... As he has outlined, nobody is going to be earning x amount for x amount of time. What I am saying to you is that, in fact, there were people – at least one individual – who was on a three-year contract with the Construction Training Centre. All I am asking is: will you go back and just check? That is all I am asking.

1925 **Hon. J J Bossano:** I know, Mr Speaker, and I have told him that I have already checked and that the answer is there are people in the Construction Training Centre who are doing NVQ 1, NVQ 2 and NVQ 3. If they have done NVQ 1, they go on to NVQ 2. That does not mean that they are guaranteed that they will stay three years if they do not pass NVQ 1. So they do not have a contract –

1930 **Hon. D A Feetham:** If they pass, of course they are!

1935 **Hon. J J Bossano:** If they pass, right. So, therefore, what the new contract is doing is increasing their pay form £450 to £912 in each of the three years, and therefore they have three one-year placements, one for each year. If they pass year 1, they go to year 2. That has not changed.

The nature of the relationship with the Construction Training Centre has not been changed at all, and they still have the same relationship, with the same guarantees that they had before.

1940 So what the hon. Member is trying to imply is that, as opposed to being able to carry on three years in the Construction Training Centre, they are only going to be there now for 11 months, the answer is no. The 11-month contract with the Employment Company is only as regards to their getting paid the new salary and does not alter whatever they have got in writing from the Construction Training Centre.

Hon. D A Feetham: Is the reason for these 11-month contracts to prevent trainees from acquiring statutory unfair dismissal rights after 12 months? (*Applause*)

1945 **Hon. J J Bossano:** Well, Mr Speaker, no more than the previous system and the £450 which excluded them, irrespective of how long they were, from all the statutory rights, where the definition of ‘worker’ excluded people on Government training schemes. (**Several Members:** Shame!) (*Interjections*)

I think that to suggest that, somehow, we are removing rights after 11 months from people who had zero rights before we gave them the rights during the 11 months, is quite extraordinary!

1950 The reality of it is that the 11 months is because the scheme starts on 1st February, and is designed for the 11 months of 2012. Those people that require to continue (*Interjections*) will be given up to three years, if that is the time they need for the training, (**A Member:** Hear, hear.) depending on the nature of the training that they require and the nature of the skills that they are getting! (*Applause*) So they are getting a contract for this year. (*Interjections*)

1955 **Hon. D A Feetham:** So the answer is that, yes, they are being given 11-month contracts in order to prevent them from acquiring statutory unfair dismissal rights, is it?

1960 **Hon. J J Bossano:** No, the answer is no, that is not the reason!
The reason is because there are 11 months left in 2012 and it started on 1st February. It is a contract for 2012. If there were 13 months, they would have got a contract for 12 months. That is the answer. (*Applause*)

1965 **Hon. D A Feetham:** So, of course, if they get taken on in November or December, they only get one-month contracts. Is that the position?

Hon. J J Bossano: Well, I have not yet discussed whether we should be doing that or not – (**Several Members:** Ah!) (*Laughter*) We may well do it – I do not know what we will do in March. I can tell him that everybody who starts in February will get an 11-month contract, and it is quite possible that those who start in March will get 10 so that all the contracts are renewed on 1st January.

1970 But if we wanted to deprive them of their statutory rights to unfair dismissal, all we had to do was to leave them on the terms they were for the last 15 years and – (*Applause and interjections*) (**Several Members:** Hear, hear!) when they had no right to unfair dismissal, no right to the minimum wage, no right to annual leave, no right to sick leave, no right to injury at work. So I would have thought (*Interjection*) that even if the hon. Member was correct – which he is not – and I am not confirming what he said; I am denying it – even if he were correct, it would mean that out of 12 things that they were previously denied, we have given them 11. But he is wrong: we have given them the 12. (*Applause*)

1980 **Hon. D A Feetham:** Does he not accept – (**Several Members:** No!) (*Laughter*) Listen to the answer first!
Does he not accept, and does he not agree with me, that the purported reason for the introduction of this particular scheme, as outlined on numerous occasions by the hon. Gentleman opposite, was to ensure that trainees have full statutory employment rights (*Applause*) and that the effect of giving them an 11-month contract is to do the complete opposite? (**Several Members:** Hear, hear!) (*Applause*) Isn’t that what – ?

1985 **Several Members:** Hear, hear! (*Applause*)

Hon. J J Bossano: Mr Speaker, I have already said ‘no’ to him three times. I am quite happy to stand up

and say, no, I do not accept that and I do not agree, (*Interjections*)

1990 **Mr Speaker:** Order. Order.

Hon. J J Bossano: The hon. Member is imputing a reason – and he is wrong – that might be the reason *he* would have if *he* were doing it because it is quite obvious, if he thinks I am doing it, it must be because that is what *he* would be doing if he were in my place.

1995 I am not doing it to deprive them of the right of unfair dismissal, because they will not be unfairly dismissed, period.

Clerk: Question 1 –

2000 **Mr Speaker:** The Hon. Daniel Feetham.

Hon. D A Feetham: The hon. Gentleman is obviously determined not to answer the question, so I am not going to press him on that, but does he think that it is very socialist for a socialist Government to be introducing a policy that could have the effect of depriving trainees of statutory unfair dismissal rights? (*Interjections*)

2005 **Hon. J J Bossano:** I certainly do not think the hon. Member's history allows him to express judgements on what is socialist or not socialist. (**Members:** Hear, hear.) That is clear and the fact that somebody has a contract for 11 months is not evidence that the intention is to sack him at the end of the 11 months and not give him the right to go to a tribunal. This is nonsense, because then the hon. Member is saying that everybody *ought* to be given a 12-month contract, something they never did in 15 years with hundreds and hundreds of youngsters that went through the schemes.

2010 If he thinks it is the right thing to do, why did they not implement it in 15 years? He is now criticising something that, by any stretch of the imagination, is an improvement on what there was. I can tell him that nobody will lose their job at the end of the 11 months. He can take it or leave it. Time will tell who is telling the truth.

2015 **Clerk:** Question 1 –

2020 **Mr Speaker:** The Hon. Leader of the Opposition.

Hon. P R Caruana: Mr Speaker, does the hon. Member acknowledge that my colleague's last supplementary asked him not about his *motives* for doing it, but the *effect* of doing it.

2025 **Hon. J J Bossano:** No.

2030 **Hon. P R Caruana:** In other words, the question that he had answered three times and threatened to answer a fourth, was actually a different question. The first three were denials by him – does he acknowledge? – of whether this was the reason why he had done it, to which he said no. On the fourth occasion my friend asked him, will he acknowledge that is the *effect* of it, regardless of what his intention might have been and then, because he assumed that he had been asked the same question again, he gave the same answer. It is a slightly different question: the effect, *in law*, and the other thing is what the hon. Member may intend to do or not to do – but in law, the *effect* of only having an 11-month contract is, is it not, to ensure that certain employee rights, amongst them that one, are not obtained.

2035 Mr Speaker, will the hon. Member also acknowledge that, of course, he can list all the employee rights that he wants and they will be different from what they are today, that is because *we* treated such individuals as trainees and not as employees, and therefore we made no pretence about them enjoying employee rights? Will he, however, acknowledge that it is *their* policy that is under scrutiny here?

2040 *Their* policy is that they should be employees; he said publicly that they would enjoy *all* employee rights and therefore it is legitimate for us to cross-examine him, to ask him to ensure that they do, *in fact*, enjoy all employee rights – and it is no answer to that to say, 'they are better off than they were when *you* were in Government' – we know that because they have now become employees, as opposed to trainees.

(Interjections)

2045 **Hon. J J Bossano:** Mr Speaker, first of all, I did answer the last question by adding that no-one would lose employment at the end of 11 months and I am saying that in Parliament and the hon. Member and the trainees can hold me to that statement.

2050 Secondly, it is not true that an 11-month contract automatically deprives you of the right to unfair dismissal, because there are a whole range of categories where the 11 months, or the one month, does not apply. There are reasons for dismissal where there is an automatic right to unfair dismissal and automatic compensation.

Members: No, no.

2055 **Hon. J J Bossano:** No, I am not talking about... I am saying that protection against unfair dismissal of 12 months applies for a number of categories, but there are other categories where the protection is from day one, so it is not true that automatically everybody, because it is 11 months, can go for unfair dismissal. But the bottom line is I am giving a commitment in Parliament that it will *not* be the case that anybody who comes to the end of the 11 months will be made redundant or be dismissed.

2060 **Hon. P R Caruana:** Even a subsequent period of 11 months, so even if they cannot get a placing with an employer, they will be kept on then?

Hon. J J Bossano: Well, everybody that is now in the system is in placements.

2065 Of those... *(Interjection by Mr Caruana)* but, in the future, what is going on at the moment with people that are coming in and the employers I am talking to, is that the intention is that we match the candidates to the placements. The placements are identified first, otherwise what would we do with the people we have taken on?

2070 **Hon. P R Caruana:** Yes, but if for any reason an employer, contrary to the hon. Member's expectation, if an employer, in fact, does not convert the employment from a placement into a permanent employment with the company, with the private sector company, in those circumstances the Government company will retain the employee, will they?

2075 **Hon. J J Bossano:** If an employer does not honour the commitment, then that person will come back to us and we will find him another placement, yes.

Hon. P R Caruana: So they will stay as employees of the Government?

2080 **Hon. J J Bossano:** Absolutely.

Mr Speaker: The Hon. Daniel Feetham.

Hon. D A Feetham: Just one more question.

2085 I think the hon. Gentleman took exception to my using the term 'socialist Government' and, of course, he is right. The hon. Members opposite are an eclectic mix of socialists and liberals, headed by a former liberal.
(Interjections)

But may I ask the hon. Gentleman – *(Interjections)*

2090 **Mr Speaker:** Order! Order! *(Interjections)*

Hon. D A Feetham: The hon. Gentleman talks about 'turncoats', but the hon. Gentleman to his left broke the GSLP manifesto on public television and... *(Multiple interjections)*

2095 **Mr Speaker:** Order! Order! *(Continuing interjections)*

Hon. C A Bruzon: The relevancy of manifesto breaking – what has that got to do with the debate?

Mr Speaker: Let us get to the question that the Hon. Daniel Feetham wants to pose.

2100 **Hon. D A Feetham:** May I ask the hon. Gentleman whether this was a decision taken by the socialist Minister for Employment or was it the Cabinet?

Hon. J J Bossano: What decision is the hon. Member talking about?

2105 **Hon. D A Feetham:** The 11-month contracts rather than longer contracts.

Hon. J J Bossano: The decision on the 11 months was taken by me with the people that are running the system, on the basis that we were starting on 1st February.

2110 This is not a policy decision that the Cabinet decided they would make everybody redundant in 11 months and have them back on our books. Does the hon. Member really think that anybody in Gibraltar is going to believe that we want to go into a system where we take all the people that are out of work and put them into a system to provide them with work, only to sack them all and have them all back in the Employment Service registered as unemployed?

2115 **Hon. D A Feetham:** To prevent them suing the Government for unfair dismissal, yes.

Hon. J J Bossano: Mr Speaker, the Government will not be sued for unfair dismissal, even if it were true, which is *not* the case.

2120 The people who would be sued for unfair dismissal would be the employment training company and, in fact, we would not be breaking new ground, because the first time the Government of Gibraltar was sued for unfair dismissal was in 1996 when there was a change of Government and the first thing the GSD did was that they sacked three people working for the Government, all of whom took the Government to court for unfair dismissal and all three won.

2125 So we do not expect, in *our* term of office, to face claims of unfair dismissal, but if it happens, all that would be happening would be what happened in 1996.

Clerk: Question 1 – (*Interjections*)

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

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**Approaches to Unite UK
Discussions re leadership of Unite**

2135 **Clerk:** Question 135, the Hon. D A Feetham.

Hon. D A Feetham: Can the Minister for Employment state whether he has spoken to or written to anyone from Unite UK about the leadership of Unite, since he became a Government Minister?

2140 **Clerk:** Answer, the Hon. the Minister for Enterprise, Training and Employment.

The Minister for Enterprise, Training and Employment (Hon. J J Bossano): No, Mr Speaker.

2145 **Hon. D A Feetham:** Has he asked anybody to speak to Unite on his behalf?

Hon. J J Bossano: No, Mr Speaker.

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**Gibraltar Development Corporation
Role within the public service**

2155 **Clerk:** Question 136, the Hon. D A Feetham.

Hon. D A Feetham: Can the Minister for Employment state what the Government's policy is in relation to the Gibraltar Development Corporation and its role within the public service?

2160 **Clerk:** Answer, the Hon. the Minister for Enterprise, Training and Employment.

2165 **Minister for Enterprise, Training and Employment (Hon. J J Bossano):** Mr Speaker, the Government's policy in relation to the GDC and its role within the public service remains as established in its constitution – 'The object of the Corporation shall be to secure the regeneration and economic expansion of Gibraltar.'

Hon. D A Feetham: Does the Government propose to expand and extend the use of GDC?

2170 **Hon. J J Bossano:** The Government expects that it will play a much bigger role in the economic regeneration of Gibraltar than it has done in the last 15 years, or that he would have done if he had been in Government since they were going to abolish it.

2175 **Hon. P R Caruana:** Does the hon. Member envisage that the GDC will increase its staff? I have in mind certain remarks that he is alleged to have made to some of the people who were leaving the GDC to the Civil Service. Apparently, he gave an indication that there would be more career opportunities and an expanded role, so should we correctly interpret that to mean that it will play a more prominent role in quantum terms?

2180 **Hon. J J Bossano:** That, indeed, is the expectation. For example, one of the things we are committed to is the expansion of the Gibraltar Savings Bank and, therefore, there will be opportunities when that institution is able to operate.

I have set a target that is probably too ambitious, doing this in one year, but if we are able to do that, it will no longer be possible for this to be run as a sideline in the Treasury, it will have his own staff and there will be opportunities for people in the GDC in areas like that, which will be new areas of expansion.

2185 **Hon. P R Caruana:** So the Government envisages the possibility that activities that are presently carried out by civil servants, may in future be carried out by GDC and GDC employees?

Hon. J J Bossano: No, Mr Speaker, activities are at present not being carried out by anybody.

2190 **Hon. P R Caruana:** What about the Savings Bank?

2195 **Hon. J J Bossano:** What the Savings Bank is doing at the moment is in terms of the Treasury, booking sales of debentures. Certainly, if that was all that was going to be done with the Savings Bank, there would be no change.

**Gibraltar Development Corporation
Employees appointed to Civil Service prior to General Election**

2200 **Clerk:** Question 137, the Hon. D A Feetham.

2205 **Hon. D A Feetham:** Can the Minister for Employment state what the Government's policy is in relation to former GDC employees who were appointed to the Civil Service prior to 8th December 2011?

Clerk: Answer, the Hon. the Minister for Enterprise, Training and Employment.

Minister for Enterprise, Training and Employment (Hon. J J Bossano): Mr Speaker, all GDC employees appointed to the Civil Service prior to 8th December have been able to remain in the Civil Service on the terms of their appointment, if they wanted to do so.

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Hon. P R Caruana: Mr Speaker, can the hon. Member explain to the House what offer he made to those employees who have not yet signed on the dotted line? As the hon. Member knows, the Government have sent a letter saying 'PSC or something has admitted you: if you accept the terms, sign below.' Some people have, some people have not.

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There is a difference across the floor of this House – which is not relevant to this question – about whether the fact that the Employment Service had or had not yet registered that change had any impact at all on the legality of the employment relationship, but, leaving that to one side, can the hon. Member explain what offer he made to those, either those who had not already signed, I do not know whether he offered even those who had already signed, the possibility of going back to the GDC and, if so, what was it that he suggested, or offered, that might have induced somebody to leave the Civil Service, which had been the sort of panacea to try and get into, and leave it again?

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Hon. J J Bossano: Mr Speaker, although the hon. Member says it is a matter which we may have a different view in this House, the reality of it is that, on 9th December, everybody that was supposedly, on 1st October, in the Civil Service was registered to be as still being in the GDC.

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Although the hon. Member may not attach any importance to it, he actually brought legislation to this House with very severe penalties for failure to notify terminations and commencements and changes. My view is that, if Government authorities and agencies do not comply with the requirements of the employment law in registering changes in employment and commencement and terminations, they hardly have the authority to go round fining people, especially when some of the labour inspectors themselves were, in fact, not correctly registered with their employer and were going round inspecting other people.

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So, certainly, it is an anomaly that I found very peculiar and I would have thought if I was unemployed and I was taken to court by a labour inspector for not registering the termination of my employee, I would appeal to the judge to take into account that my accuser himself was guilty of the same offence.

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Putting that to one side, as he wants me to do, I have to tell him that there were 92 who had not signed the letter. Therefore, my view was that, irrespective of the fact that the position of the Human Resources was that, whether they had signed the letter or not, they were already in the Civil Service, the position of those who had not signed was that they were being asked to sign on the basis that signing meant acceptance, although, in fact, the letter simply said, 'I have read the contents of the letter and understand it' – not that I have read and agree. So even the ones who had signed were subsequently arguing that, by signing, they had not agreed and that, therefore, they could not be transferred without their agreement, irrespective of what had been signed with anybody because, in fact, it was a change in their relationship with their former employer.

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The initial decision that I took, after discussing it with many of the people concerned, many of whom were in the Department that was under employment – and most of the people who had not signed were there – was that they did not have to go to the Civil Service if they did not want to, because, at the end of the day, we had made a statement at the Budget in response to what the Government was introducing, suggesting that giving them the same pay and conditions and keeping them where they were, would be a better alternative, so that that was the statement we had made in the Budget and we stood by it. So they did not have to sign, if they did not want to.

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Then, a few of the people in the Department who had signed, came back and argued that they had not signed to transfer, they had signed simply to say 'I have read and understood what the letter says' and that, in fact, at the time the decision was being taken, on 8th October, it was really a one-way decision, because if you are told the entity that employs you is going to be dissolved and discontinued and not going to continue employing people, then if you do not go, where are you or where do you remain? On that basis, I agreed that even those who had signed should be given the option of, as it were, 'returning home', if they wanted to do that, to the GDC.

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Given that much of the second thoughts that people were expressing was because of the ring fencing, I said to them, 'Look, the position is that you are guaranteed that the pay will be the pay in your original letter, the conditions will be the conditions in your original letter: from now on, the GDC will track the Civil Service'. So these are not conditions personal to the holder.

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Everybody that gets taken on by the GDC will have the same pay and the same conditions that have been

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introduced and since you will not be ring-fenced and it is the intention, as a matter of Government policy, to expand the role of the GDC, rather than move in the opposite direction, you probably have got better opportunities if you stay in the GDC but, at the end of the day, the Government and I do not have a particular preference; we do not want to push people in one direction or the other. It is a matter that each individual will be able to choose which way they want to go.

In practice, there has tended to be a situation where, in each group, most of the people have gone the same way. So in one area almost everybody is Civil Service and in another area almost everybody is GDC, so it has turned out quite tidy at the end of the day, because it is not a fragmented situation, where people are half in and half out, but the final result is that 67 opted to be in the Civil Service and 94 opted to stay in the GDC.

Hon. P R Caruana: Two things: first of all, going briefly back to the issues that we have agreed to put aside, everything that the hon. Member says about... I have never known whether civil servants get registered at the ETB or not, because of the PSC, but assuming, taking in what is implicit in what he says that, even the civil servants registered and deregistered at the matter of administrative act?, which is not something that I am familiar with, but presumably he concedes that whatever may be the desirability or need for public servants to be in order, at the Employment Service, it does not undermine... In other words, any administrative failure is not germane to whether or not you are an employee of a particular person or not, which is a matter of employment laws. In other words, once you get inducted into the Civil Service you are a civil servant, even if the Civil Service is then incurred in an administrative failure in not doing the registration paperwork at the Civil Service.

So that he can answer both together, could I just also ask whether the effect of the fact that 67 have opted to stay in the Civil Service, I think he said – unless I have got them the wrong way round – and 94 remained behind or went back... how many of those went back to, or never left... but the effect is that, for the 67 that chose to remain in the Civil Service, the ring fence... the fence in the ring fence has become tighter, has it, because there are now fewer posts for them to be able to opt to, fewer other posts for them, or can they still opt for all the posts, even the ones currently occupied by someone who has chosen to go back to the GDC?

Hon. J J Bossano: I do not think it has become tighter but, taking the first point: the whole point, Mr Speaker, is that in the GDC there were 160 people registered with the ETB, right? And their employer was the GDC. The law says that if the GDC terminates the employment of its people, like any other employer in Gibraltar, there is a penalty if they do not do it. (*Interjection*) Well, no, penalty is one thing, complying with the law is one thing... The rule of law... I am no QC, but I would have thought that the rule of law is important and if the inspector is breaking the law, how can the inspector take somebody to court for breaking the law that *he* is breaking?

It is not just the GDC. There are people in all the other companies, that are still shown in the GDC as working somewhere else, in breach of the requirements of the Employment Act, which was considered to be so important when the hon. Member brought it here, that he may remember he wanted to fine people £3,500 for not putting termination... and I thought that was a bit steep.

I can tell the hon. Member that the Employment Service now takes its duties in this respect very seriously, is fining everybody in sight, from the GDC on! They have not decided whether they should fine themselves, but certainly everybody else is being fined for not doing what the law requires them to do. The result of that is that I hope – (*Interjection*) – certainly.

Hon. P R Caruana: Does he agree with me... I agree with him that, of course, there is a rule in the law that has to be complied with, and it applies to the GDC or Government companies and, of course, there is an obligation to comply with it and the sanction is the same and it might even undermine your moral standing, as an enforcer, if you are not yourself in order.

Will he, on reflection, agree with me that he cannot take that so far as to say... and, therefore, any employment relationship that is the object of this administrative irregularity is not valid, *cannot be right*, because, otherwise, all an employer would need to do to defeat the employment contract aspect of the employer's relationship with its employee is simply not register and pay a fine? In other words, compliance by an employer with the administrative, legal, penalisable obligation to do certain things that the ETB does not, if it is not complied with, mean that the worker concerned is not actually, in contract law, a contracted employee of that employer. That is the only point I was making.

2320 **Hon. J J Bossano:** I do not agree with him although, Mr Speaker, I do not pretend to be somebody trained in law, but I can tell him, that if I was an employee of the GDC and I was told on 1st October 'You are a civil servant, whether you like it or you do not', without my consent... Yes, that is what happened, because people were told, as a result of an agreement with a union, that the Public Service Commission has decided to put you all in the Civil Service. Here is a letter on your pay and your conditions and the Official Secrets Act and all the rest of it. Sign it! And 92 said: 'I do not sign it'.

If those people did not sign it, and if –

2325 **Hon. P R Caruana:** A good point: he is right, those people are not, therefore, changing their employer. In other words, you cannot unilaterally be passed from one employer to another by the employer.

2330 That is not the point I am making. The point I am making is that, when there is consensus, when the employee *has* agreed where an employee has been agreed to change from one employer to another, that transfer, that new relationship with the second new employer is not conditional for its legal validity on the paperwork being put in place in the ETB.

That is the point I am making but, of course, I agree with *him* that you cannot be transferred, so anyone who did not consciously agree to be transferred did not, in fact, transfer.

2335 **Hon. J J Bossano:** Right, Mr Speaker, but that is not what people were told. (*Interjections*) No, no, but the 92 who did not sign, were told that the fact that you have not signed is neither here nor there, because the Public Service Commission has made you public servants. It is an issue that was reflected in a letter that he wrote and gave to Mr Albert Hewitt to read in a meeting, where he said that because the Public Service Commission has transferred you, you were transferred and that is it, and you have all been civil servants since 1st October.

2340 I do not agree that that is the correct position in law and I certainly think that the 92 people who did not sign, who thought that if the letter required their signature, it was because they had an option to sign or not sign and that, therefore, it made a difference whether they signed or they did not sign... So, independent of the fact that the GDC failed to notify the Employment Service that *x* number of their employees had left employment and were now in the Civil Service, on top of that, even those who have not chosen to leave, were told that, whether they liked it or not, they also had left the GDC and were civil servants.

2345 So, the net result is, because 94 have come back, it is true that the ring-fencing is now the ring-fencing of the 67, but also –

2350 **Hon. P R Caruana:** In those posts?

Hon. J J Bossano: In those posts, but it is also, by definition, a position where only the 67 can compete for those jobs, so there are around 94 people who are excluded from the equation and, in the end, the only way one could see whether, actually, the 67 are better off or worse off, is dependent on the number of higher-grade posts that there are in the 67.

2355 **Hon. P R Caruana:** They may be better off, Mr Speaker, would he agree, in terms of competition for 67 posts, but they are worse off in terms of the range of activities that they could opt to do, so that is what I had meant, when I said that the rings were getting tighter. Whereas, before, they had 150 something posts scattered around many activities, that anyone could have cross fertilised from one activity to another, now it is the number of activities and posts within the 67 that have stayed behind.

2360 **Hon. J J Bossano:** That is, in fact, an accurate description, but I have to point out to the hon. Member that, from what I have seen of the spread of activities and the time that people have been in the area, it seems, really, that the people who are in the Tourist area are in the Tourist area because they want to be in the Tourist area and the people in the Employment area are in the Employment area because that is where they want to be. There has been very little, if any, movement between these sectors.

2370 So what now happens is that, really, the people are staying in the kind of work they want to be and I would imagine that, even though the 94 may have more opportunity in other fields, it is more likely to be an opportunity that people who are at AO level will want to take up and not the people who are higher up the structure.

Mr Speaker: The Hon. Daniel Feetham.

2375 **Hon. D A Feetham:** Can the hon. Gentleman confirm that, in fact, Unite have expressed a view to you that ring-fencing the ring-fence, so to speak, in relation to the 67 civil servants, the 67 people, that that amounts to a unilateral variation of those individuals' contracts?

2380 **Hon. J J Bossano:** Well, Unite can have the view that it likes and it can take the matter for a judge to decide whether it is or it is not. In my view, the decision to put them all in the Civil Service, without their individual consents, was a unilateral decision of the contracts of the GDC employees.

2385 **Hon. D A Feetham:** So would the hon. Gentleman confirm that the answer is 'yes', that Unite have expressed the view to you that what he is doing amounts to a unilateral variation of these employees' contracts.

Hon. J J Bossano: Yes, Unite, that was responsible for the unilateral variation of the GDC contracts, believes that what they did to 166 was right and that what I am doing to 67 is wrong. That is correct.

2390 **Hon. D A Feetham:** Thank you very much – it was not that difficult! (*Laughter*)
Can the hon. Gentleman confirm that Unite have also asked for a meeting with the hon. Gentleman to discuss this and have asked for the process to be frozen until after that meeting.

2395 **Hon. J J Bossano:** Well, they have not asked it now, because the process is long gone by, and people have taken a decision. At the time that I gave the people the choice, Unite considered that having had two months to think about it was insufficient time, although they accepted that, with the previous administration, having had eight days to think about it was a sufficient time.

2400 So people were told on the 1st they were going to be moved and they had to decide by 8th October. I came in on 9th December and I gave them two months to think about it, and the people who had thought that eight days was sufficient before thought now that eight weeks was too little time after!

2405 Given that nobody was being forced – unlike the first time, when they were moved, whether they liked it or not – the second was that if they did not want to come back, they could all stay in the Civil Service. The view that I took was that I have gone to the length of giving them an option that did not exist, so therefore it was something that I was not obliged to give – I inherited a situation where they were all told they were in the Civil Service, take it or leave it. I came in and I said, 'Well, look, you do not have to take it or leave it, you can change your mind.' I explained it individually. I called a meeting of all 166, I answered all their questions over three and a half hours, and I thought I had given them a greater deal of consultation, involvement and participation than anything they had enjoyed previously and that, therefore, there was no justification in the request by Unite to delay the process, other than to delay the process - period.

2410 In any event, given that their concern was about the people in the Civil Service, I am not responsible for the people in the Civil Service; I am responsible for the people in the GDC. So, therefore, if the people in the Civil Service were unhappy about the offer for moving to the GDC, all they had to do was to stay as they were on 1st October, because there was no preference to bring them back. If they had chosen to stay in the Civil Service, then the GDC would simply have gone ahead with doing whatever it wanted to do with the new employees.

2415 **Hon. D A Feetham:** So the answer is that the Government does a song and dance about greater consultation, greater transparency, greater accountability, but the Minister for Employment of that Government refused to meet Unite and refused a two-week freeze of the process – a two-week freeze of the process! – in order to allow the union representatives of these employees to meet with you and to discuss it. Is that not the case?

2425 **Hon. J J Bossano:** No, the case is that Unite was happy, when he was in Government, to have a decision taken in eight days and when we came in, we gave eight weeks – and when we gave them eight weeks, Unite thought it was too little and they wanted at least two weeks. The answer to that was it was quite simple: if they did not like what was on offer, all they had to do was stay with what they had signed up to and accepted from the previous administration.

2430 So the position of Unite had absolutely no basis and no justification, because they were not being told they could not have what they had. They had what they had and they could keep it! So why should the new Government, having given them more than they had, now have to enter into a period of consultation, when they were ready to accept less before?

2435 **Hon. P R Caruana:** Well, Mr Speaker, does he not accept that the reason might be because it is not as clear cut a choice as the hon. Member is describing? It sounds very good for him to say, 'Why do you need more than two weeks if, after all, you can stay as you are and just don't accept the offer that I am giving you two months to think about – or that I have given you two months to think about, which is either not to go at all or to come back?'

2440 Does he not understand that the reason might be that those who had already gone, and had to decide whether or not they wanted to come back, had legitimate concerns about how what the hon. Member was proposing would affect their ring-fencing rights, some of which I have asked him this morning in the questions, and they wanted clarification from the hon. Member about what the impact would be upon those who chose to keep what the previous Government had done for them and not entertained the hon. Member, and that the two weeks were needed, whilst those workers decided whether they should stay or come back, once they understood how their position might have been altered by this new development?

2445 **Hon. J J Bossano:** The answer to that question, Mr Speaker, is that if it was not that the two weeks was needed; it is that they wanted at least two *more* weeks with no - (**A Member:** No.) Yes, that is what the letter said - (*Interjection*)

2450 **Mr Speaker:** Order! The Minister is answering.

2455 **Hon. J J Bossano:** - to take a decision on something where it was not a 'take it or leave it' position. It was a position that had been under discussion for a number of weeks before and, in a three and a half hour face-to-face meeting in the theatre of the Mackintosh Hall, where people were able to ask as many questions as they could possibly think of, the two weeks would not have enabled me to give them more answers, more detailed answers or more explanations than had already been given to them.

2460 They already raised all these issues. They were already told that this was the position and that, therefore, nobody was putting a gun to their head. The position was that there were people who did not want to go and we wanted to give them the opportunity to stay; that the people who had already decided to go, to whom we had no obligation because they chose to do that, we were giving them the opportunity of coming back if they wanted to come back, and that having had eight weeks to do it...

2465 Well, look, the thing happened on 1st October. The election was on 8th December. Between 1st October and 8th December, no consultation, no meeting, no discussion, no nothing! We come in on 9th December and then, finally, after two months, they want two more weeks. We are not talking about two weeks any more; we are talking about five months since the original decision was taken. What is it - that the union had to wait for me to arrive on the scene before they could discuss it with anybody?

2470 **Hon. D A Feetham:** Let me ask the hon. Gentleman a question that was put in correspondence to a Human Resources manager, copied to the Chief Minister of Gibraltar, which was not answered - perhaps he could answer it now here in this Parliament and, indirectly, to GDC members.

'Doesn't the hon. Gentleman think that refusing to meet Unite'

- refusing to meet with them - refusing a simple two-week freeze - just a simple two-week freeze -

2475 'that this has obliged many affected members, who required further clarification of their terms and conditions, to take a decision under duress?'

That is a direct quote from a letter on behalf of Unite to the Chief Minister of Gibraltar.

2480 **Hon. J J Bossano:** Well, I do not know who drafted the letter from Unite. Certainly, the people who signed it I do not think were capable of spelling out the word 'duress'.
Nevertheless -

2485 **Hon. D A Feetham:** That appears to be the problem. The problem is your relationship with Unite and your – *(Interjections)*

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

2490 **Hon. J J Bossano:** Mr Speaker, I do not have a problem with Unite. If Unite has a problem with me, then I think you should talk to them and not to me.

2495 The fact that Unite writes to me about something to do with the Civil Service is not something that I am going to answer, because I am not responsible for the Civil Service. I am responsible for the GDC, and the people in the GDC have not gone to Unite, asking Unite to say anything. The people who were complaining were the people remaining in the Civil Service who had no right to complain, as far as I am concerned, because I was giving them an option that they did not have on 1st October, that they had not complained about after 1st October, that they had from 9th December to think about, that they had eight weeks to think about it, that they had three and a half hours with me – and that is a level of consultation of workers involved in the GDC that they have never experienced in the entire 15 years.

2500 So the answer is, I do not agree with his analysis and, therefore, all he is trying to do is make political capital out of being the champion of Unite. Well, look, if he wants to be the champion of Unite, then he can be the champion of Unite. I do not want to compete with him in that area.

2505 **Hon. C A Bruzon:** Mr Speaker, please, on a point of order.
If you allow me, hon. Member, I honestly cannot remember the original question, Mr Speaker.

Mr Speaker: Well, I can.

Hon. C A Bruzon: You can. Are we still on the - ?

2510 **Mr Speaker:** Well, we are still on the subject and, in my discretion, I will allow the supplementary.

Hon. C A Bruzon: Okay.

2515 **Hon. D A Feetham:** How many times has the hon. Gentleman met in an official capacity with Mr Sisarello or Victor Ochello from 9th December last year?

Hon. J J Bossano: None - either official or unofficial. *(Interjections)*

2520 **Hon. D A Feetham:** It is the first straight answer that we have got from the hon. Gentleman in the whole morning! *(Laughter)*

2525 Just one final question. Again, I want to just read, before I ask him, from a letter on behalf of GDC members that was written to Brenda Cumbo but copied to the Chief Minister of Gibraltar. It was written because, in fact, there was a previous letter from the same source, to the hon. Gentleman, that went without response, and it says this:

2530 ‘The fact that *their* [GDC] members’ genuine and reasonable request for further information and time to consider the same have been dismissed out of hand and without even the courtesy of a written reply has left many of the said members very distressed. Many of these members feel that they have been bullied into making an abrupt decision and go forward in an atmosphere of uncertainty, distrust and fear.’

Does the hon. Gentleman feel proud the GDC members feel in that particular way because of decisions that he has made?

2535 **Hon. J J Bossano:** Well, I work very closely with GDC members and that is not what they are transmitting to me. That is the view of people who are probably out of touch with their own membership and, therefore, I do not agree.

Hon. P R Caruana: Mr Speaker, I detected a certain degree of relish, almost pride, in the hon. Member’s

2540 answer that he had not had a single meeting with any of the elected officers of Unite since 9th December. I think that, Mr Speaker... would he accept that that is precisely an issue which is worthy of comment.

2545 Does it not strike him, as being a Minister in a Government that prides itself and, indeed, got elected riding on the crest of a wave on openness, consultation, stake holding, relationships with outside stakeholders, that the Minister for Employment, himself an ex-trade union leader, has presided in the last eight or nine weeks over some pretty *significant* changes of policy, involving worker rights and interests, for example, the GDC part reversal albeit voluntary that he has presided over, the superannuation fund, the employment trainees - a shift of people from trainees to employ...?

2550 That this *huge* change, really, in areas affecting working people in Gibraltar, members of Unite. Does it not strike the hon. Member as odd that he should not have had a single meeting with the union, Unite, in respect of *any* of those matters? Does he not agree that that reflects a state of personal animosity between him and the then leadership of Unite?

Hon. J J Bossano: I do not accept that it reflects what he says it reflects in his last remark.

2555 I will tell him what it reflects. It reflects the fact that the things that we have introduced, as a Government, are things that the union never requested, never thought of fighting for, never asked anybody to do. Therefore, I do not see how we need to consult if we have produced a situation, where the union is happy that people should get £450, I do not see any need to consult the union as to whether they agree that they should get £912. Or does he think that...?

2560 **Hon. P R Caruana:** The basis of consultation is not whether you agree or disagree!

Hon. J J Bossano: No, no, no, the union based on consultation is that the union is consulted about things, on the basis that the person consulting the union thinks they need the union agreement to do something, not because you are giving something that nobody is asking for.

2565 The introduction of the GSLP/Liberal manifesto is an electoral commitment with the electorate not with Unite. Therefore, we are delivering what we set out to deliver and the people that we had to consult, we consulted on 8th December. Those people that we consulted decided by a majority that they approved the programme and we are going to implement it. I do not accept that the implementation of the manifesto on which we have been elected requires consultation with Unite.

2570 That is the answer.

Hon. P R Caruana: A democratically elected Government can use its executive powers and its parliamentary majority to do what it likes without consulting anybody, without the courtesy of bringing in representative bodies to explain to them in advance... of course, that is the case.

2575 But *this* particular Government was elected on the promise of not doing that – of doing the opposite, Mr Speaker. That is the point. The point is that the hon. Members have made *huge* changes in things affecting the union which, with a Government with a normal relationship with the union would not have contemplated, surely, in introducing these changes without at least bringing the union in and explaining to them *in advance* what they might be contemplating doing.

2580 Will the hon. Member at least say whether, since the 9th December, to his knowledge, either the current District Officer, Charles Sisarello, or his deputy, the Branch Officer, Mr Ochello, had sought access to him – have sought a meeting with him?

2585 **Hon. J J Bossano:** They have not sought a meeting with me for anything for which I am responsible, which does not include industrial relations of the Civil Service. I am not –

Hon. P R Caruana: Have they sought a meeting with him?

2590 **Hon. J J Bossano:** Not for anything for which I am responsible. If they seek a meeting for me on an industrial relations problem in the Civil Service, they are pointed in the right direction - which is not me.

Hon. P R Caruana: Is it not the case, Mr Speaker, therefore that they *have* sought a meeting with him, that he apparently now is arguing that it has been denied to them because it was for something not to do with them -

2595 **Hon. J J Bossano:** No, I have not, no, no, no -

Hon. P R Caruana: The union, Unite, has sought a meeting, yes or no?

Hon. J J Bossano: No, I have not said -

2600 **Hon. P R Caruana:** Have they sought a meeting?

Hon. J J Bossano: No, I have not said that; I have said, *if* they sought a meeting with me on an industrial problem, in anywhere in the Civil Service -

2605 **Hon. P R Caruana:** My question was not qualified.

Hon. J J Bossano: I do not know whether they have or they have not but, if they have, they will have been pointed in the right direction, which is in the direction of the Minister with responsibility for industrial relations, which is not me.

2610

Hon. P R Caruana: I see. So they may have sought a meeting with you.

So will the hon. Member confirm that it is *not* the case that he has said to anybody that he would not meet with either of those two gentlemen?

2615 **Hon. J J Bossano:** That is correct.

Hon. P R Caruana: It is correct that he has not said that?

2620 **Hon. J J Bossano:** I have not said that, no.

Hon. P R Caruana: And you are, therefore, quite open to meeting with them -

Hon. J J Bossano: Well, no, I am not quite open to meeting with them. I will meet them if what they raise is something which I am responsible for, and not otherwise – obviously.

2625

Hon. P R Caruana: Mr Speaker, the hon. Member is the Minister for Employment! (**Hon. J J Bossano:** Yes.) This idea that if a union wants access to the socialist Minister for Employment, they have to calibrate the subject matter precisely so that the hon. Member is not able to say ‘That is not my responsibility’ is itself an extraordinary state of affairs, is it not?

2630

Hon. J J Bossano: It is not... I will tell him why it is not an extraordinary state of affairs: because in the last 15 years, although the Minister for Employment had industrial relations in his portfolio gazetted, all the negotiations were done with him.

2635 Now the industrial relations is not gazetted as being mine, and therefore unions do not negotiate with me; unions negotiate with the Chief Minister, which they were doing before the 9th, except that, theoretically, the person responsible was Mr Montiel who was the last person to find out what was going on. That is the difference.

2640 **Hon. P R Caruana:** Mr Speaker, is he not the Minister with responsibility for the GDC? (**Hon. J J Bossano:** Yes.) And if he is the Minister with responsibility for the GDC, surely the union, Unite, is entitled to ask for a meeting with him about GDC matters?

2645 **Hon. J J Bossano:** Yes, but the union, Unite, was not making representations to me about the GDC matter. It was making representations to me about civil servants who, having accepted that they were staying in the Civil Service, now wanted to come back, having had a meeting in Unite, where Unite said the position of the Leader of the Opposition and the position of Unite is the same - that everybody is a civil servant.

I do not know whether he has been converted, because he always used to remind me that he was not a socialist and now he has become part of the hierarchy of Unite, but the fact that he and Unite coincided in that

2650 they were all civil servants on 1st October, as far as I am concerned does not give Unite the right to talk about the positions of those who did not want to be in the Civil Service and who chose to stay in the GDC. If there are people in the 94 that came in to the GDC, bullied under duress, then I will write to each one of the 94 and let us see what they tell me, because I do not want people who do not want to be where they are.

2655 **Hon. P R Caruana:** But is it not the case, if he can hone this back to the GDC 67 or 94, however you like, had or had not... the fact that he is on that territory... surely, he accepts and understands the fact that he looks through a magnifying glass at the reason why union leaders want meetings with him, to decide whether they are appropriate or not, is the answer that I am trying to get to.

2660 Is it not the case that the Branch Officer and the District Officer of Unite have asked for meetings with him for general purposes and that he has refused to see them?

Hon. J J Bossano: If they have – and I cannot say without going back and checking – I would have refused to see them if they wanted to see me for general purposes. I am not the Minister for General Purposes! (*Interjections*) Therefore, they can only see me for something that I am responsible for.

2665 **Hon. P R Caruana:** General employment purposes...!

2670 **Hon. J J Bossano:** Well, no, they certainly have not come to see me about general employment purposes – and they certainly have not expressed one single word of concern about the fact that there are 1,300 people unemployed, which I find quite extraordinary from committed trade unionists!

Mr Speaker: The Hon. – Sorry, the Hon. Leader of the Opposition.

Hon. P R Caruana: My final supplementary, Mr Speaker, on this issue.

2675 Mr Speaker, will the hon. Member acknowledge in this House that, in his relationship towards the union, Unite, to date, and in his willingness to see them or not see them, he has been motivated in significant part, not by the normality of fluidity and accessibility that there ought to be between an Employment Minister and the leadership of Gibraltar's largest trade union, but rather by a degree of personal and possibly even political animosity towards the individuals that were in the leadership of that union?

2680 **Hon. J J Bossano:** No, I do not, Mr Speaker.

2685 **Industrial Tribunal (Calculation of Compensation) Regulations 1992
Changes to Basic Award**

Clerk: Question 138, the Hon. D A Feetham.

2690 **Hon. D A Feetham:** Can the Minister for Employment state whether it was the Government's intention when making the changes to the Basic Award in the Industrial Tribunal (Calculation of Compensation) Regulations 1992 to give those changes retrospective effect and make them applicable to claims that had already been lodged with the Industrial Tribunal?

2695 **Clerk:** Answer, the Hon. the Minister for Enterprise, Training and Employment.

2700 **Minister for Enterprise, Training and Employment (Hon. J J Bossano):** Mr Speaker, irrespective of the date when any claim is lodged, the changes to the Basic Award in the Industrial Tribunal (Calculation of Compensation) Regulations 1992 will apply in respect of any determination by the Tribunal made after this amendment.

Hon. D A Feetham: Did the hon. Member consult anyone before introducing these changes?

Hon. J J Bossano:No, Mr Speaker. I did not consult anybody, because I had fought an election saying we

2705 would do it if we got elected.
As far as I know, when the previous Government removed the provision which we have now put back, in 2008, they did not consult anybody, either.

Hon. D A Feetham: Well, the hon. Gentleman would be wrong in making that assumption because, in fact, I did. I consulted all the chairmen of the Industrial Tribunal.

2710 The reason why *we* made the change was because the vast majority of the chairmen of the Industrial Tribunal took the view that the provisions as they then stood provided no discretion in relation to the Basic Award. What we did was we actually clarified the law in order to make that absolutely clear.

2715 Does the hon. Gentleman think that it is good practice to actually change the law and give it retrospective effect and that is affecting parties' rights in this particular way?

Hon. J J Bossano: Well, Mr Speaker, if it is not good practice, then he should not have done it in 2008, because when he did it in 2008, he cut the figure at £2,200 for all the pending cases as well, so if what is with them now is retrospection, what he did in 2008 was retrospection.

2720 **Hon. D A Feetham:** Mr Speaker, again for the hon. Gentleman's benefit, we did not retrospectively change anything. All we did was make sure that the law, as we were being told... We made clear that the law, as we were being told by the Industrial chairmen was the position – we made clear that was the position. That is not *changing* anything retrospectively.

2725 But does he not accept that this particular change causes huge uncertainty for employers and also for lawyers, who cannot now calculate the compensation payable to employees?

Hon. J J Bossano: Well, I do not know whether it causes great uncertainty or not. I can tell the hon. Member that it did not cause great uncertainty to lawyers or anybody else between 1992 and 2008. The law was there for 16 years. For 12 of the 16 years – that is for longer than it was under the GSLP...

2730 Mr Speaker, does the hon. Member have an interest in the answer or does he...? Is he interested in the answer?

Mr Speaker: I cannot order a Member to listen, but...

2735 **Hon. J J Bossano:** No, no, but if he is not interested in the answer, I will not bother to give it; I will sit down.

Mr Speaker: I will leave it to the Minister to answer...

2740 **Hon. P R Caruana:** I think the correct parliamentary procedure is that the hon. Member is addressing the Chair and addressing the whole House, not just the questioner.

2745 **Hon. J J Bossano:** Well, I have no doubt that the Chair and the whole House *is* interested, but if the questioner is not interested, then I do not know whether it is worth doing it for the sake of the whole House and the Chair.

Mr Speaker: But I am interested –

2750 **Hon. D A Feetham:** The hon. Gentleman should not assume that I am not listening, simply because I am not looking at him directly.

Hon. J J Bossano: No, no, no, because he was in deep conversation with his 'mentor' and I do not know whether it was his 'mentor' was already preparing his next supplementary for him.

2755 The answer is that - (*Interjection and laughter*) Peppermint instead of 'mentor', is it?

The answer to the hon. Member's question is that the law was introduced on the basis that the award could be not less than £2,200 but there was no upper limit.

In 2008, the Government decided to change the law and make the £2,200 the maximum, because it was the *only* amount that could be awarded. He calls that 'clarification'; I can tell him that there were a number of

2760 pending cases that I was dealing with in the Tribunal, where the workers who might have got £2,200 or £2,300 or £2,400 were capped because of the change that was brought in, and he did not seem to think that depriving them of the legitimate expectation that they had before the cap was put was retrospective. But he is saying that this is now retrospective. Well, I do not know why it is retrospective *now* and it was not retrospective then, when the effect is similar.

2765 But, in any event, this does not require anybody to give more than £2,200; it makes it *possible*. So that there is no doubt, the wording that was there before has not been restored, so that we now make it very clear that it is at the discretion of the Chairman, how much above the £2,200 he wants to go. Now it may be that the lawyers that represent employers may find this something that is not very welcome. I am sure the lawyers that represent dismissed persons will welcome it.

2770 **Hon. N F Costa:** Mr Speaker, just by way of clarification to the hon. Gentleman, and I am working from recollection, but I am quite sure I remember reading two judgments where one chairman did, in fact, increase the basic award from £2,000 to around £5,000-£6,000, so there is judicial precedent by which chairmen can guide themselves, so it is not an insurmountable or impossible task. There is judicial precedent that I recall.

2775 **Hon. D A Feetham:** No, there was, in fact, I think, one decision by an industrial tribunal chairman. I had a meeting with all the chairmen of the Industrial Tribunal... In fact, I am not sure that the Speaker was there because I think that it was not appropriate to ask the Speaker.

2780 **Mr Speaker:** I had abandoned that practice by then.

2785 **Hon. D A Feetham:** - or he had abandoned the practice by then. But I had a meeting and the view that was expressed to me was that, as a matter of statutory interpretation, it was not right for... the cap was £2,300, as a matter of statutory interpretation. That was the view that was expressed to me, and that it was unsatisfactory that you had a situation where you had one or two chairmen of the Industrial Tribunal that took a different position to *all* the others.

2790 So the Government then took a decision to clarify the situation and say, 'Right, this is the law as it *exists*,' because it is clearly unsatisfactory for some chairmen to take the view... the vast majority of chairmen to take the view that it gave no discretion, and there were one or two, as I recall, that took a different position altogether.

2790 But may I ask the hon. Member opposite: how will lawyers and also employers calculate how much of the basic award is actually payable to *anybody*? Does he know? Does he have a clue about that at all?

2795 **Hon. J J Bossano:** I can tell the hon. Member, first, that when the law was introduced by the GSLP in 1992 it was introduced on the basis that what we were producing was a *minimum* of £2,200 and no maximum and that, therefore, if some people have chosen to pay the £2,200 and other people have chosen more, at no stage did people come to us and say, 'We interpret not less than £2,200 as meaning no more than £2,200.'

2800 I do not have the benefit of being a lawyer, so I read the English language as it is written, and therefore, for me, 'not less than' means that you can go, as a minimum, for £2,200. For some people to say that it is a matter of interpretation whether 'not less than' means not less than or not more than, which is what the hon. Member is telling the different views of different Tribunal chairmen has been, is something that was never put to me. If it had been put to me, I can tell him the wording would have been changed to make it crystal clear that 'not less than' means *at least* £2,200.

2805 Now, to make sure that that argument no longer holds true, it says *not less than* £2,200 and at the discretion of the chairman. The chairman is free to award whatever amount he thinks appropriate, using his discretion, in the circumstances of the case. There are, for example, in the United Kingdom, *unlimited* awards for compensation for a variety of grounds for dismissal, which do not exist in Gibraltar and which I hope to bring in as well.

2810 **Hon. D A Feetham:** But does the hon. Gentleman not accept that, in fact, the difference between the hon. Gentleman and myself in relation to this particular issue is that I happened to bother consulting the people who are administering the system: the chairmen of the industrial tribunal. You have not bothered to consult *anybody*, and this from the Government of many consultations!

2815 **Hon. J J Bossano:** I can tell him that the intention of Parliament – not the views of the lawyers that go to Tribunals; the intention of Parliament in 1992 – was that the minimum should be £2,200. (*Interjection*) At no time has anybody... Yes, the intention of Parliament, because that was done when we were in Government.

2820 **Hon. D A Feetham:** No, not the intention of Parliament; the intention of the Minister, because it never came to Parliament. It was subsidiary legislation.

Hon. J J Bossano: Well, right, but it was a regulation made under the provisions of the law and the intention was then clearly spelt out that the minimum was £2,200.

2825 As far as I am concerned, the Tribunal chairmen have either given £2,200 or given more than £2,200 because they were not allowed to give less. It was not because they were not permitted to give more. The fact that his consultants and people have told him ‘We haven’t given more because we didn’t think we could,’ should make those people happy now, because now they know they can. So what I have given now to all the people who said to him, ‘We have got a problem, that we do not know if we can go over,’ now that problem has been removed. The uncertainty that worried all those lawyers representing employers has now been removed by the action we have taken. Now it is clear they can give more, they can now sleep at night, comfortable in the idea that the sky is the limit and they can give workers as much money as they want. (*Interjections*)

2830 **Hon. D A Feetham:** The hon. Gentleman may laugh at this but, in fact, there are many employers that feel very concerned about this particular situation, because now... and, indeed, there are a lot of lawyers that feel very concerned about this particular situation because the compensatory award is there to compensate for... to place the person in a position where they would have been had the employer, for example, not undertaken the breach of contract or not done what they have done.

2840 The basic award is something over and above that, but now, as the legislation stands... Does he not accept that that is the uncertainty? As the legislation stands, there are no principles *at all* on which anybody can calculate the basic award. The hon. Gentleman laughs, but what he is really saying is, ‘Well, look, I don’t care – it is up to the chairman of the Industrial Tribunal to decide what the basic award is,’ but that creates *uncertainty* for employers, for employees and also for lawyers. Does he not accept that? (*Interjections*)

2845 **Hon. C A Bruzon:** Where is the question?

2850 **Hon. J J Bossano:** Mr Speaker, I do not accept anything that he has said. I do not accept anything that he has said, because the intention in 1992, which they changed 16 years later – that is, it took them 16 years to realise there was uncertainty – (*Applause*) and after 16 years they decided to cap it, and I have to tell him that there were many occasions in the past, when we were in Government, where fixing a limit on what could be the penalty on something we were told was interfering with the independence of the judiciary...

So, yes, there were many occasions when I was told that. The hon. Member can shake his head, but I was told that.

2855 **Hon. P R Caruana:** Not on that occasion.

Hon. J J Bossano: Well, surely if you cannot say to a lawyer, to a magistrate, how much he can fine somebody for parking or driving, then you should not be able to tell the tribunal, which is a judicial entity, how much it can award in compensation.

2860 So, as far as I am concerned, it was the intention in 1992. It was, in my view, *scandalous* that a former trade union official, Louis Montiel, should be the one that presided over the capping in 2008, and I am happy that one of the first things we have done is put back what was taken away in 2008 and what was happening before 2008 and what was intended in 1992. (*Applause*)

2865 **Hon. P R Caruana:** Mr Speaker, of course it is open to the hon. Members as a matter of policy that the situation that the hon. Member has just described should be brought about. No-one is disputing that they have the right, as a matter of policy, to adopt whatever position is lawful, constitutional, and they wish to adopt in the matter of the re-balancing of the rights and risks between employers and employees.

But can I ask the hon. Member if he would consider that, from that side of the House, the responsibility is

2870 wider than that: that the primary purpose of the legislation we are discussing is, of course, the compensation of people who, let us not forget, have been found to have been unfairly dismissed, and that that is a very laudable objective and that the hon. Member should have as a policy that such people should be properly compensated, I think that is a perfectly legitimate policy. Whether we agree or do not agree with the exact figure, that is another matter.

2875 But that there is another objective, could I ask the hon. Member to take into account, by the Government, should have, and that is to encourage and not *discourage*, particularly given the efforts that the hon. Member is making on the training and employment front, that Government's policies need to balance everything that I have just said with not making it, not discouraging, not disincentivising employers from creating speculative employment because, if an employer cannot know what the financial cost or what the order of the financial cost would be to extricate himself unfairly – unfairly, it has to be said, because we are in the realms of unfair dismissal – from an employment situation, he is going to think much harder before taking that on.

2880 The issue here is not whether £2,200 is too high or too low or whether it was always *intended* to be a minimum and never a maximum, which is what the hon. Member keeps on harping back to, but rather whether the law should provide a framework that allows a calculation of the ballpark of potential liability, as opposed to an open cheque. There are no criteria, there are no guidelines, there are no benchmarks against which an employer or a lawyer advising an employer can possibly form a view about what the exposure might be.

2885 So the issue here is not between the position that occurred in 1992 as against the position that we brought about in, whenever it was, two-thousand and whatever, (**A Member:** Eight.) and eight. The position is that, now that he has done what he has done, in a way which is intended to signal an end to the cap, and the tribunals will take that into account, there is, for the first time – because there is a coincidence of clarification and new law – a complete *vacuum* of reckoner. There is a complete vacuum of criteria against which to calculate potential exposure liability, because it is all literally limitless in the discretion of a tribunal, and that, I think, is a point which may be worth more consideration in slower order than may be implicit in some of the hon. Member's answers.

2890 I would ask him to agree.

2895 **Hon. J J Bossano:** Mr Speaker, there is no evidence from the 16 years when it was not less than £2,200 that any of the problems... (*Interjection*) Well, it did not operate... I do not accept that it did not operate because the people concerned thought they could not do it. It is because they thought they did not want to do it. I have never been in any tribunal where the tribunal chairman – and I have been to many, many, many, many – has said, 'I would like to give you £2,200 but, in my view, the law does not allow me.' That has never been said. They have just said, 'Well, look, £2,200 is what I have to give you,' and that is it. I have often argued for more and I have never ever been told by a chairman, 'I cannot accept your argument because my interpretation is that I am not *able* to give you more. Whenever it has been turned down, it has been turned down on the basis that the chairman has decided that £2,200 is enough, and when they have got over –

Hon. P R Caruana: Regardless of the figure?

2900 **Hon. J J Bossano:** Regardless of the figure in the –

Hon. P R Caruana: In the regulations?

2910 **Hon. J J Bossano:** Throughout the 16 years, in all the Tribunals that I have been, where I have always asked for the maximum in everything, because I think that what you are going to need to do when you go to a Tribunal... But whenever I have asked for more on the basic award, there have been a few occasions when the chairman has been persuaded to maybe say, 'Well, I will give you £2,200 plus inflation since 1992.' But I have never had a chairman who says, 'Well, I think this is a deserving case. I would like to give you £2,200 but my interpretation is that I am not permitted by the wording to go beyond £2,200.'

2915 I have never come across that in any Tribunal that I have ever been in and, therefore, I see no reason for supposing that what I have not experienced in 16 years is going to happen now. But if, indeed, there is a problem in the future which has not happened in the past and it needs to be revisited, I will revisit it – but I do not believe there will be a problem.

2925 **Hon. D A Feetham:** Just one final... Does he not accept that the very fact that he has not reverted to the former wording 'not less than', but has used a completely different wording, actually implicitly accepts that the position was not clear?

2930 **Hon. J J Bossano:** No, I accept that there were people like him that *thought* it was not clear, (*Laughter*) and therefore to make sure that he does not make the mistake again. (*Applause*)

Hon. D A Feetham: The hon. Gentleman gives me too much importance, I have to say.

Hon. J J Bossano: Well, it shows how much I think about about him, Mr Speaker.

2935 **Mr Speaker:** Next question, please.

A Member: As opposed to...?

2940 **Mr Speaker:** The Hon. –

Hon. Dr J J Garcia: Mr Speaker, I move the House to now adjourn to three o'clock today.

2945 **Mr Speaker:** Is that convenient to all the hon. Members? This House will adjourn until 3.00 p.m. this afternoon.

The House adjourned at 1.05 p.m. and resumed its sitting at 3.00 p.m.