



# PROCEEDINGS OF THE GIBRALTAR PARLIAMENT

MORNING SESSION: 9.25 a.m. – 9.40 a.m.

Gibraltar, Thursday, 21st November 2013

## The Gibraltar Parliament

*The Parliament met at 9.25 a.m.*

[MR SPEAKER: Hon. A J Canepa GMH OBE *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, Thursday, 21st November 2013.

(i) Oath of Allegiance.

### CONFIRMATION OF MINUTES

**Clerk:** (ii) Confirmation of Minutes – the Minutes of the last meeting of Parliament which was held on 17th, 18th and 29th October 2013.

5 **Mr Speaker:** May I sign the Minutes as correct? (**Members:** Aye.)

*Mr Speaker signed the Minutes.*

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COMMUNICATIONS FROM THE CHAIR

Whether Government Ministers misled the House  
Ruling by the Speaker

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**Clerk:** (iii) Communications from the Chair.

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**Mr Speaker:** This is the first time that I am formally ruling on a matter raised by the Leader of the Opposition. It is not very often that the Speaker, either here in this Parliament or perhaps in any other parliament is asked to make a ruling. Accordingly, I have checked with the Office of the Clerk of the House of Commons as to whether a Member of Parliament is entitled to rise and respond to a ruling.

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The position in the House of Commons is that a Member will not be allowed to rise and respond, or even reserve his position, as this would in effect be challenging the ruling. The correct formal step for a Member who is dissatisfied would be to table a formal motion stating his opposition to the ruling clearly.

Now as to the matter at hand.

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As Members are no doubt aware, the Leader of the Opposition has been in correspondence with me, seeking my adjudication on an allegation that Government Ministers had misled Parliament when answering questions in relation to the Sunborn Floating Hotel.

Having studied our Standing Rules and Orders, consulted the edition of 'Erskine May' currently in use and after consulting the Office of the Clerk of the House of Commons, I responded with a ruling which I think should be placed on the record so that all Members should be aware of the salient points contained therein.

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In the Leader of the Opposition's letter of 17th July 2013, he asked that I rule on:

'whether:

- (a) the deliberate misleading of Parliament by a Member is capable of amounting to a contempt of Parliament; and
- (b) you have the power on a complaint by another Member that a Member of Parliament has deliberately misled Parliament and therefore acted in contempt, to rule that a *prima facie* case has been established?'

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The following extracts from my replies to the Leader of the Opposition constitute my ruling:

(1) Erskine May, at page 203, sets out the breaches of parliamentary privilege which could amount to a contempt. These include circumstances where the business of the House is obstructed or impeded.

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Up until the present time, and noting the Leader of the Opposition's dissatisfaction with the answers given to his questions, but in no way judging the issue, I fail to see how it can be held that the business of the House was impeded so as to constitute a contempt. Nor, again, do I consider that the business of the House was obstructed or impeded.

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(2) There is no provision in our Standing Rules and Orders to deal with cases regarding allegations of a Minister misleading Parliament when answering a question. This is also the position in the House of Commons. In not giving the Speaker the power to adjudicate on allegations or complaints that a Minister has misled Parliament when answering questions, the Speaker is being safeguarded, probably intentionally, from being placed in an untenable situation. Never-ending instances would, no doubt, arise whenever a Member was not satisfied with an answer, when the Speaker would be expected to adjudicate on allegations that Parliament had been misled.

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(3) I have also asked the Office of the Clerk of the House of Commons as to what courses of action in Parliamentary terms are open to the Opposition, should they consider that the Government have misled Parliament. They have replied that:

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'Purely procedurally, if a Government Minister is accused of misleading the House then:

- (a) Either the Opposition could approach the matter politically, with motions of censure, confidence etc, or
- (b) If they felt that a particular Member (in this case a Minister) had misled the House then another Member could make a complaint in the normal way for the matter to be treated as a matter of privilege and referred to the Committee of Privileges.'

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Since we do not have a 'Committee of Privileges' in our Parliament to whom the matter can be referred, only (a) above would seem to be relevant.

That is the end of my ruling, and I am providing all Members with a copy of this ruling.

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**Clerk:** (iv) Petitions; (v) Announcements.

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**DOCUMENTS LAID**

**Clerk:** (vi) Papers to be laid.  
The Hon. the Chief Minister.

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**Chief Minister (Hon. F R Picardo):** Mr Speaker, I have the honour to lay on the Table the Audited Accounts of the Gibraltar Regulatory Authority for the year ended 31st March 2013.

**Mr Speaker:** Ordered to lie.

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**Clerk:** The Hon. the Minister for Enterprise, Training, Employment and Health & Safety.

**Minister for Enterprise, Training, Employment and Health & Safety (Hon. J J Bossano):** Mr Speaker, I have the honour to lay on the Table the Social Security (Insurance) (Amendment of Benefits) Order 2013 (Legal Notice 131 of 2013).

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**Mr Speaker:** Ordered to lie.

**Clerk:** The Hon. the Minister for Tourism, Commercial Affairs, Public Transport and the Port.

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**Minister for Tourism, Commercial Affairs, Public Transport and the Port (Hon. N F Costa):** Mr Speaker, I have the honour to lay on the Table the Report of the Principal Auditor on the Accounts of the Gibraltar Port Authority for the financial year ended 31st March 2012.

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**Mr Speaker:** Ordered to lie.

## Questions for Oral Answer

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### Questions from 690/2013 to 706/2013 to be answered in writing

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**Clerk:** (vii) Reports of Committees; (viii) Answers to Oral Questions.  
Question 690/2013, the Hon. J J Netto.

**Hon. J J Netto:** Mr Speaker, I would like my Oral Questions from 690/2013 to 706/2013, both included, to be treated as Written Questions instead.

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**Chief Minister (Hon. F R Picardo):** Mr Speaker, the Government will not object to that application made by Mr Netto, but it is a matter, in my view, entirely for the Chair.

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**Mr Speaker:** There is nothing in the Rules to cover this situation. Where it is... Members of the Opposition who desire that questions should be answered in a written form, prior notice is given to that effect, and likewise, when notice is given that questions are down for an oral answer, separate notice is given.

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The only situation, once notice of a question has arisen, where written answers are provided to questions which were meant for oral answer, is when a Member due to ask that question is not present. If that Member is absent, and no other Member in his or her place asks that question, then a written answer is given.

Since the Government has no objection, I am not going to object to that being the case, but I do wish to make the point that it is not covered by Rules, and that therefore it should not be taken as a precedent.

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### Procedural

**Chief Minister (Hon. F R Picardo):** Mr Speaker, given that Questions 707 onwards are to be answered by me, and we have established a precedent in this House that the Chief Minister answers

135 Questions on the third Thursday of each month at 3.00 p.m., I now move that the House recess until 3.00 p.m. this afternoon.

**Mr Speaker:** The House will now recess to 3.00 p.m.

140 *The House recessed at 9.40a.m. and resumed its sitting at 3.00p.m.*



# PROCEEDINGS OF THE GIBRALTAR PARLIAMENT

AFTERNOON SESSION: 3.00 p.m. – 7.30 p.m.

Gibraltar, Thursday, 21st November 2013

## The Gibraltar Parliament

*The Parliament met at 3.00 p.m.*

[MR SPEAKER: Hon. A J Canepa GMH OBE *in the Chair*]

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

## Questions for Oral Answer

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### CHIEF MINISTER

#### Credit Finance Company Ltd; Gibraltar Savings Bank Funding of Government projects

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**Clerk:** Answers to Oral Questions continue.  
Question 707/2013, the Hon. E J Reyes.

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**Hon. E J Reyes:** Mr Speaker, can the Minister for Heritage state whether any heritage related projects are being funded, or the intention is to fund, either wholly or partially, either directly or indirectly, by: (a) Credit Finance Company Ltd; or (b) the proceeds of monies deposited in the Gibraltar Savings Bank?

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

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**Chief Minister (Hon. F R Picardo):** Mr Speaker, I will answer this question together with Questions 708 to 750, 753 and 755.

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

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**Hon. E J Reyes:** Can the Minister for Education state whether any school maintenance/refurbishment or new construction projects are being funded, or the intention is to fund, either wholly or partially, either

directly or indirectly, by: (a) Credit Finance Company Ltd; or (b) the proceeds of monies deposited in the Gibraltar Savings Bank?

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

**Hon. E J Reyes:** Can the Minister for Education state whether any projects related to the establishment of a University of Gibraltar are being funded, or the intention is to fund, either wholly or partially, either directly or indirectly, by: (a) Credit Finance Company Ltd; or (b) the proceeds of monies deposited in the Gibraltar Savings Bank?

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

40 **Hon. E J Reyes:** Can the Minister for Training state whether any Vocational Apprenticeships and/or Training Schemes are being funded, or the intention is to fund, either wholly or partially, either directly or indirectly, by: (a) Credit Finance Company Ltd; or (b) the proceeds of monies deposited in the Gibraltar Savings Bank?

45 **Clerk:** Question 711, the Hon. E J Reyes.

**Hon. E J Reyes:** Can the Minister for Culture state whether any cultural related projects, including but not Ltd to, the provision of a new theatre, are being funded, or the intention is to fund, either wholly or partially, either directly or indirectly, by: (a) Credit Finance Company Ltd; or (b) the proceeds of monies deposited in the Gibraltar Savings Bank?

**Clerk:** Question 712, the Hon. E J Reyes.

55 **Hon. E J Reyes:** Can the Minister for Youth state whether any youth and/or Youth Service related projects are being funded, or the intention is to fund, either wholly or partially, either directly or indirectly, by: (a) Credit Finance Company Ltd; or (b) the proceeds of monies deposited in the Gibraltar Savings Bank?

**Clerk:** Question 713, the Hon. E J Reyes.

60 **Hon. E J Reyes:** Can the Minister for Sports and Leisure state whether any sports related projects, including, but not Ltd to, the provision of new sporting facilities for football, rugby and/or cricket, are being funded, or the intention is to fund, either wholly or partially, either directly or indirectly, by: (a) Credit Finance Company Ltd; or (b) the proceeds of monies deposited in the Gibraltar Savings Bank?

65 **Clerk:** Question 714, the Hon. E J Reyes.

**Hon. E J Reyes:** Can the Minister for Sports and Leisure state whether any maintenance/refurbishment or new construction projects, in respect of premises for clubs and associations are being funded, or the intention is to fund, either wholly or partially, either directly or indirectly, by: (a) Credit Finance Company Ltd; or (b) the proceeds of monies deposited in the Gibraltar Savings Bank?

**Clerk:** Question 715, the Hon. Mrs I M Ellul-Hammond.

75 **Hon. Mrs I M Ellul-Hammond:** Can the Minister with responsibility for Civil Contingencies state whether any projects, or manifesto commitments, within his Ministry are, or will be, funded wholly or partially, either directly or indirectly, by Credit Finance Company Ltd, or by the proceeds from monies deposited in the Gibraltar Savings Bank?

**Clerk:** Question 716, the Hon. Mrs I M Ellul-Hammond.

80 **Hon. Mrs I M Ellul-Hammond:** Mr Speaker, can the Minister with responsibility for the City Fire Brigade state whether the new relocated City Fire Station will be funded, wholly or partially, either directly or indirectly, by Credit Finance Company Ltd, or by the proceeds from monies deposited in the Gibraltar Savings Bank?

85 **Clerk:** Question 717, the Hon. Mrs I M Ellul-Hammond.

90 **Hon. Mrs I M Ellul Hammond:** Mr Speaker, can the Minister with responsibility for the Civil Contingencies state whether the updating and fitting of the C3 bunker is being, or will be, funded wholly or partially, either directly or indirectly, by Credit Finance Company Ltd, or by the proceeds from monies deposited in the Gibraltar Savings Bank?

**Clerk:** Question 718, the Hon. Mrs I M Ellul-Hammond.

95 **Hon. Mrs I M Ellul Hammond:** Mr Speaker, can the Minister for Health state whether any projects, or manifesto commitments, within his Ministry are, or will be, funded wholly or partially, either directly or indirectly, by Credit Finance Company Ltd, or by the proceeds from monies deposited in the Gibraltar Savings Bank?

100 **Clerk:** Question 719, the Hon. Mrs I M Ellul-Hammond.

105 **Hon. Mrs I M Ellul Hammond:** Mr Speaker, can the Minister for Health state whether the new mental health facility at the former RNH site, is being, or will be, funded wholly or partially, either directly or indirectly, by Credit Finance Company Ltd, or by the proceeds from monies deposited in the Gibraltar Savings Bank?

**Clerk:** Question 720, the Hon. Mrs I M Ellul-Hammond.

110 **Hon. Mrs I M Ellul Hammond:** Mr Speaker, can the Minister for Health state whether the new hospital kitchen, ambulance facility and extended A&E will be funded, wholly or partially, either directly or indirectly, by Credit Finance Company Ltd, or by the proceeds from monies deposited in the Gibraltar Savings Bank?

115 **Clerk:** Question 721, the Hon. Mrs I M Ellul-Hammond.

**Hon. Mrs I M Ellul Hammond:** Mr Speaker, can the Minister for Health state whether the new Electronic Health Records System will be funded wholly or partially, either directly or indirectly, by Credit Finance Company Ltd, or by the proceeds from monies deposited in the Gibraltar Savings Bank?

120 **Clerk:** Question 722, the Hon. Mrs I M Ellul-Hammond.

125 **Hon. Mrs I M Ellul Hammond:** Mr Speaker, can the Minister for Social Services, Equality and the Elderly state whether any projects or manifesto commitments within her Ministry are, or will be, funded wholly or partially, either directly or indirectly, by Credit Finance Company Ltd, or by the proceeds from monies deposited in the Gibraltar Savings Bank?

**Clerk:** Question 723, the Hon. Mrs I M Ellul-Hammond.

130 **Hon. Mrs I M Ellul Hammond:** Mr Speaker, can the Minister for Social Services state whether the new Alzheimer and Dementia facility, at the former RNH site, is being, or will be, funded wholly or partially, either directly or indirectly, by Credit Finance Company Ltd, or by the proceeds from monies deposited in the Gibraltar Savings Bank?

135 **Clerk:** Question 724, the Hon. Mrs I M Ellul-Hammond.

140 **Hon. Mrs I M Ellul Hammond:** Mr Speaker, can the Minister for Social Services state whether the Elderly facility, at the former John Mackintosh Wing, of the old St Bernard's Hospital is being, or will be, funded wholly or partially, either directly or indirectly, by Credit Finance Company Ltd, or by the proceeds from monies deposited in the Gibraltar Savings Bank?

**Clerk:** Question 725, the Hon. Mrs I M Ellul-Hammond.

145 **Hon. Mrs I M Ellul Hammond:** Mr Speaker, can the Minister for Social Services state whether the new Alzheimer Day Care Centre, at the former RNH site, will be funded wholly or partially, either directly or indirectly, by Credit Finance Company Ltd, or by the proceeds from monies deposited in the Gibraltar Savings Bank?

**Clerk:** Question 726, the Hon. Mrs I M Ellul-Hammond.

150 **Hon. Mrs I M Ellul Hammond:** Mr Speaker, can the Minister for Social Services state whether the new Elderly Day Care Centre at Waterport Terraces will be funded, wholly or partially, either directly or indirectly, by Credit Finance Company Ltd, or by the proceeds from monies deposited in the Gibraltar Savings Bank?

155 **Clerk:** Question 727, the Hon. Mrs I M Ellul-Hammond.

**Hon. Mrs I M Ellul Hammond:** Mr Speaker, can the Minister for Social Services state whether the dedicated clubhouse for the Gibraltar Special Olympics movement, and the facility for the Gibraltar Clubhouse Project, will be funded wholly or partially, either directly or indirectly, by Credit Finance Company Ltd, or by the proceeds from monies deposited in the Gibraltar Savings Bank?

160 **Clerk:** Question 728, the Hon. S M Figueras.

**Hon. S M Figueras:** Mr Speaker, can the Hon. the Minister for Transport state whether there is any expenditure under any of the Departments, Government Agencies, or statutory bodies he is responsible for, which is being funded, or that is intended to be funded, wholly or partially, either directly or indirectly, by (a) Credit Finance Company Ltd, or (b) from the proceeds of monies deposited in the Gibraltar Savings Bank?

170 **Clerk:** Question 729, the Hon. S M Figueras.

**Hon. S M Figueras:** Mr Speaker, can the Hon. the Minister for Traffic state whether there is any expenditure under any of the Departments, Government Agencies, or statutory bodies he is responsible for, which is being funded, or that is intended to be funded, wholly or partially, either directly or indirectly, by (a) Credit Finance Company Ltd, or (b) from the proceeds of monies deposited in the Gibraltar Savings Bank?

175 **Clerk:** Question 730, the Hon. S M Figueras.

180 **Hon. S M Figueras:** Can the Hon. the Minister for Justice state whether there is any expenditure under any of the Departments, Government Agencies, or statutory bodies he is responsible for, which is being funded, or that is intended to be funded, wholly or partially, either directly or indirectly, by (a) Credit Finance Company Ltd, or (b) from the proceeds of monies deposited in the Gibraltar Savings Bank?

185 **Clerk:** Question 731, the Hon. S M Figueras.

**Hon. S M Figueras:** Can the Hon. the Deputy Chief Minister state whether there is any expenditure under any of the Departments, Government Agencies, or statutory bodies he is responsible for, which is being funded, or that is intended to be funded, wholly or partially, either directly or indirectly, by (a) Credit Finance Company Ltd, or (b) from the proceeds of monies deposited in the Gibraltar Savings Bank?

190 **Clerk:** Question 732, the Hon. D J Bossino.

**Hon. D J Bossino:** Can the Minister for Enterprise, Training, Employment and Health & Safety state whether there is any expenditure under any of the Departments, Government Agencies, or statutory bodies he is responsible for, which is being funded, or the intention is to fund, wholly or partially, either directly or indirectly, by (a) Credit Finance Company Ltd, or (b) the proceeds of monies deposited in the Gibraltar Savings Bank?

200 **Clerk:** Question 733, the Hon. D J Bossino.

**Hon. D J Bossino:** Can the Minister for Tourism, Commercial Affairs and the Port state whether there is any expenditure under any of the Departments, Government Agencies, or statutory bodies he is responsible for, which is being funded, or the intention is to fund, wholly or partially, either directly or indirectly, by (a) Credit Finance Company Ltd, or (b) the proceeds of monies deposited in the Gibraltar Savings Bank?

205 **Clerk:** Question 734, the Hon. J J Netto.



**Hon. J J Netto:** Mr Speaker, can the Chief Minister state, if the new G1 vehicle has been funded, either wholly or partially, either directly or indirectly, (a) by Credit Finance Company Ltd, or (b) by the proceeds of monies deposited in the Gibraltar Savings Bank?

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**Clerk:** Question 735, the Hon. J J Netto.

**Hon. J J Netto:** Mr Speaker, can the Minister for Social Security and Health & Safety state whether there are any projects or services being provided within his areas of responsibility which have been, or will be funded, either wholly or partially, either directly or indirectly, (a) by Credit Finance Company Ltd, or (b) by the proceeds of monies deposited in the Gibraltar Savings Bank, and if so, please state which ones, and by which company or entity?

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**Clerk:** Question 736, the Hon. J J Netto.

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**Hon. J J Netto:** Mr Speaker, can the Minister with responsibility for Utilities state whether there are any projects, or services, being provided within his areas of responsibility which have been, or will be funded, either wholly or partially, either directly or indirectly, (a) by Credit Finance Company Ltd, or (b) by the proceeds of monies deposited in the Gibraltar Savings Bank, and if so, please state which ones, and by which company or entity?

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**Clerk:** Question 737, the Hon. J J Netto.

**Hon. J J Netto:** Mr Speaker, can the Minister for the Environment state whether there are any projects, or services, being provided within his areas of responsibility which have been, or will be funded, either wholly or partially, either directly or indirectly, (a) by Credit Finance Company Ltd, or (b) by the proceeds of monies deposited in the Gibraltar Savings Bank, and if so, please state which ones, and by which company or entity?

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**Clerk:** Question 738, the Hon. J J Netto.

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**Hon. J J Netto:** Mr Speaker, can the Government say whether any programme for the spaying of feral cats has been funded, wholly or partially, either directly or indirectly, (a) by Credit Finance Company Ltd, or (b) by the proceeds of monies deposited in the Gibraltar Savings Bank?

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**Clerk:** Question 739, the Hon. J J Netto.

**Hon. J J Netto:** Mr Speaker, can the Government say whether any programme for the culling of cats has been funded, wholly or partially, either directly or indirectly, (a) by Credit Finance Company Ltd, or (b) by the proceeds of monies deposited in the Gibraltar Savings Bank?

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**Clerk:** Question 740, the Hon. J J Netto.

**Hon. J J Netto:** Mr Speaker, can the Government say whether the Solar thermal design tender specification, and monitoring of pilot study, have been funded, wholly or partially, either directly or indirectly, (a) by Credit Finance Company Ltd, or (b) by the proceeds of monies deposited in the Gibraltar Savings Bank?

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**Clerk:** Question 741, the Hon. J J Netto.

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**Hon. J J Netto:** Mr Speaker, can the Government say, whether the projects for the revamping of the water catchment tank at the Eastside, and planting in the area, have been funded, wholly or partially, either directly or indirectly, (a) by Credit Finance Company Ltd, or (b) by the proceeds of monies deposited in the Gibraltar Savings Bank?

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**Clerk:** Question 742, the Hon. J J Netto.

**Hon. J J Netto:** Mr Speaker, can the Government say whether the assessment and report prepared by the company Ramboll will be funded, wholly or partially, either directly or indirectly, (a) by Credit Finance Company Ltd, or (b) by the proceeds of monies deposited in the Gibraltar Savings Bank?

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**Clerk:** Question 743, the Hon. J J Netto.

275 **Hon. J J Netto:** Mr Speaker, can the Government say whether any grants for projects that will assist in the reduction of our carbon footprint are being funded, wholly or partially, either directly or indirectly, (a) by Credit Finance Company Ltd, or (b) by the proceeds of monies deposited in the Gibraltar Savings Bank?

280 **Clerk:** Question 744, the Hon. J J Netto.

**Hon. J J Netto:** Mr Speaker, can the Government say whether the culling of feral pigeons in urban areas is being funded, wholly or partially, either directly or indirectly, (a) by Credit Finance Company Ltd, or (b) by the proceeds of monies deposited in the Gibraltar Savings Bank?

285 **Clerk:** Question 745, the Hon. J J Netto.

290 **Hon. J J Netto:** Mr Speaker, can the Government say whether any of the works, or services, in relation to the new permanent power station are being funded, wholly or partially, either directly or indirectly, (a) by Credit Finance Company Ltd, or (b) by the proceeds of monies deposited in the Gibraltar Savings Bank?

**Clerk:** Question 746, the Hon. J J Netto.

295 **Hon. J J Netto:** Mr Speaker, can the Government say whether any payments have been made wholly or partially, either directly or indirectly, (a) by Credit Finance Company Ltd, or (b) by the proceeds of monies deposited in the Gibraltar Savings Bank to the Primate Protection League and the Born Free Foundation in connection with the Government's macaque plan?

300 **Clerk:** Question 747, the Hon. D A Feetham.

**Hon. D A Feetham:** Mr Speaker, can the Chief Minister provide a list of all Government projects, or commitments, that have been funded, or will be funded, either directly or indirectly, by Credit Finance Company Ltd?

305 **Clerk:** Question 748, the Hon. D A Feetham.

310 **Hon. D A Feetham:** Mr Speaker, can the Chief Minister please provide a list of all Government projects, and commitments, that have been funded, or will be funded, either directly or indirectly, from the proceeds of monies, which have at some point been deposited in the Gibraltar Savings Bank?

**Clerk:** Question 749, the Hon. E J Reyes.

315 **Hon. E J Reyes:** Mr Speaker, can the Minister for Housing state whether any of the new co-ownership housing projects are being funded, or the intention is to fund, either wholly or partially, either directly or indirectly, by (a) Credit Finance Company Ltd; or (b) the proceeds of monies deposited in the Gibraltar Savings Bank?

**Clerk:** Question 750, the Hon. E J Reyes.

320 **Hon. E J Reyes:** Can the Minister for Housing state whether any of the new rental homes projects are being funded, or the intention is to fund, either wholly or partially, either directly or indirectly, by (a) Credit Finance Company Ltd; or (b) the proceeds of monies deposited in the Gibraltar Savings Bank?

325 **Clerk:** Question 753, the Hon. E J Reyes.

330 **Hon. E J Reyes:** Mr Speaker, can the Minister for Housing state whether any housing refurbishment projects are being funded, or the intention is to fund, either wholly or partially, either directly or indirectly, by (a) Credit Finance Company Ltd; or (b) the proceeds of monies deposited in the Gibraltar Savings Bank?

**Clerk:** Question 755, the Hon. D A Feetham.

**Hon. D A Feetham:** Mr Speaker, can the Government please state whether the Financial Services Commissions has received, or is intended to receive in future, the benefit of any loan, payment or

335 funding, either directly or indirectly, by (a) Credit Finance Company Ltd; or (b) the proceeds of monies deposited with the Gibraltar Savings Bank?

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

340 **Chief Minister (Hon. F R Picardo):** Mr Speaker, no such expenditure is, or is envisaged, to be funded by Credit Finance Company Ltd, or from the proceeds of deposits in the Gibraltar Savings Bank.

**Hon. D A Feetham:** Mr Speaker, can I draw the Hon. the Chief Minister's attention to Question 748, and Question 748 talks about or asks about the proceeds of monies which have at some point been deposited in the Gibraltar Savings Bank.

345 Now, in answer to Question 663, the Hon. – (*Interjection*) Well, I will give way.

**Hon. Chief Minister:** Mr Speaker, I have picked out that question myself, actually, now. Can I invite him to ask me the supplementary he is going to ask me, and once I have answered Question 764, which I am going to answer with Questions 751 and 763, which is the next question on the Order Paper?

350 **Mr Speaker:** Are there any other supplementaries?

**Hon. D A Feetham:** Mr Speaker, yes, clearly, I would invite the Hon. the Chief Minister, and I do not know what answer he is going to give me, in relation to the last question on the Order Paper, but of course, I know, and he knows, that £100 million has been loaned by the Gibraltar Savings Bank to the Government, so that has gone into Government coffers.

355 Now unless the Government intends for that £100 million to just simply sit there, and do nothing, which I doubt very much that is the intention, then of course the Government does intend to use the proceeds from monies that have been deposited in the Gibraltar Savings Bank for some purpose.

360 Therefore, ergo, the answer he has given me in relation to Question 748 cannot be accurate.

**Hon. Chief Minister:** Mr Speaker, that is why I have told him I have picked out Question 748 – it is not the last question on the Order Paper for today, although it is the last question there is, numbering wise. I have told him I am going to answer it next, because it is going to be answered with Question 751, which is the very next question on the Order Paper and then he will see exactly what that £100 million has been applied to. I think this Question 748 should have been answered with 764, and not with the bunch of others, because it relates to monies deposited previously. So I am quite happy to take the substance of that question in my answer to the next set of questions that will be answered.

370 **Hon. P R Caruana:** Mr Speaker, can the Hon. Chief Minister say whether the answers that he gave to the original questions apply to the tunnel under the runway as well, and indeed, whether the Government's position has changed, in respect of that project, over what he has told this House in the past.

375 **Hon. Chief Minister:** Mr Speaker, what I have said about Credit Finance, and the Gibraltar Savings Bank applies equally to the continuation of that tunnel project.

The hon. Gentleman knows, and I have told the House before, that that is a matter presently in litigation. Nothing that the Government has said previously has changed. He may be happy to hear, that, since the last answer in this House, I think the process of prequalifying people, for the tender process to complete the works has now been completed, and that the trial on liability of this matter, is actually ongoing in the United Kingdom as we speak, and the Government is advised that we can be cautiously optimistic of a favourable result.

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**Credit Finance Company Ltd; Gibraltar Savings Bank  
Funds received from, payments made to by Government**

390 **Clerk:** Question 751, the Hon. D A Feetham.

**Hon. D A Feetham:** Can the Government please state what funds or payments it, or any other Government-owned company, agency or statutory body has received from Credit Finance Company Ltd, since that company was incorporated, or from the Gibraltar Saving Bank, identifying precisely the reason and purpose for the receipt of those funds, or those payments?

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

400 **Chief Minister (Hon. F R Picardo):** Mr Speaker, I will answer together with Questions 763 and 764.

**Clerk:** Question 763, the Hon. D A Feetham.

405 **Hon. D A Feetham:** Mr Speaker, can the Chief Minister please state what monies have been paid by the Government, any Government-owned company, or the Gibraltar Savings Bank, either directly or indirectly, to Credit Finance Company Ltd, since it was incorporated, excluding the amounts paid in relation to the subscription of its shares?

**Clerk:** Question 764, the Hon. D A Feetham.

410 **Hon. D A Feetham:** Mr Speaker, can the Government please state what it intends to do with the £100 million that the Gibraltar Savings Bank has lent the Government, and in respect of which the Government has issued a monthly debenture, or debentures, at the rate of 8%.

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

**Chief Minister (Hon. F R Picardo):** Mr Speaker, excluding the amounts paid for the subscription of its shares, no monies have been paid by Government, any Government-owned company or the Gibraltar Savings Bank, directly or indirectly, to Credit Finance Company Ltd since it was incorporated.

420 The £100 million that the Savings Bank Fund has invested in a Government debenture, has been credited to the Consolidated Fund, and will be used, in the main, to fund I&D expenditure.

425 **Hon. D A Feetham:** So, does the Government envisage that part of this £100 million will, for example, be used in relation to some of the housing projects that the Government has announced? Is that a possibility? Is that envisaged by the Government?

430 **Hon. Chief Minister:** Mr Speaker, the money will go into the I&D. Where it goes in the I&D book is a matter that is not yet clearly determined, but it will go to the items of expenditure in the I&D. To do that Mr Speaker, it will go through this Parliament, and Members will have the opportunity of considering that, at the time that we consider the relevant Appropriation Bill.

435 **Hon. D A Feetham:** Well, Mr Speaker, that may be true, but of course, I asked specifically, last time round, in the last session of this House, whether any monies from the Gibraltar Savings Bank were going to be used in relation to, for example, the Aerial Farm Project, and the other housing project that the Government has announced. The answer from Minister Bossano was that no.

But does he accept that, actually, that answer cannot be entirely accurate, because part of this money may well end up in the funding of those two projects? It seems to me that it is a remarkable coincidence that the Government has announced that those projects, the combined costs of those projects, some £106 million, and that the Gibraltar Savings Bank is lending the Government, effectively, £100 million.

440 **Minister for Enterprise, Training, Employment and Health & Safety (Hon. J J Bossano):** Mr Speaker, the Savings Bank is not directly financing; the Savings Bank is buying Government debt. If the hon. Member considers that debentures sold to the Savings Bank means that it is the Savings Bank that is financing, that is a view that we do not share. One thing is for the Savings Bank to be involved in investing in something as it does with credit finance, and the other thing is for the Government public debt to be held by the Savings Bank, which it has been held in many previous occasions, and I think which at one stage, in previous questions, the hon. the backbencher asked me whether, when it came to Government expenditure, this would be done through public debt held by the Savings Bank, which I confirmed.

450 **Hon. D A Feetham:** Yes, but, Mr Speaker, does he not accept the artificiality of the situation – of course, the Gibraltar Savings Bank, is not funding directly these two particular projects to the tune of £100 or £106 million, but what is happening is that the Gibraltar Saving Bank is lending the Government £100 million, and the Government is then using that £100 million, in order to fund these two projects. Does he not accept that the distinction that he has drawn is a highly artificial one?

455 **Hon. J J Bossano:** Mr Speaker, no, I do not accept it. The Government of Gibraltar issues public debt. The public debt can either be sold directly to a member of the public, or it can be sold to the Savings Bank, which is selling Savings Bank savings instruments to the members of the public.

460 And the fact is that the money is not the money of the Savings Bank, ultimately; it is the money of the same people that would have been investing in debentures in the Government, or investing in debentures in the Savings Bank. So, ultimately, it is not the Savings Bank money; it is the money of any investor.

465 So I do not see why the hon. Member finds there is something wrong, in the money being channelled through the Savings Bank, before it becomes public debt, as opposed to being public debt directly. It is no different from the fact that the money is deposited, on the one hand, in Barclays Bank by the Government, and yet, on the other hand, it borrows money from Barclays Bank – or does he not know that this has been happening in the last 15 years?

470 **Hon. D A Feetham:** Mr Speaker, does the Hon. the Minister for Inward Investment accept that the proceeds of monies from the Gibraltar Savings Bank, savers' money, is being used by the Government in order to fund some of its projects? Does he accept that?

475 **Hon. J J Bossano:** Mr Speaker, I accept that the increase in the public debt, in the last 15 years, from £100 million to £500 million was savers' money, and that that savers' money was used to make a hole in the Theatre Royal, where it stood, and to build an £80 million Air Terminal, which is grossly underutilised, and that that savers' money could, equally, have gone directly into Government debentures, and would have not have been found objectionable by the hon. Member. Unless the hon. Member thinks that the correct thing to do, when you issue debentures, is not to make any use of the money that you borrow.

480 The hon. Member prefaced his previous supplementary by saying he would expect that if we issued a debenture, it is not just for the money to sit there. It is because the money is going to be spent, and that is quite true. The money is going to be spent, and we could either go and say to the public, buy Government debentures, which we choose not to do, or we sell the Government debentures to the Savings Bank, who in turn borrow the money from the public. So, what is the difference?

485 **Hon. D A Feetham:** So, Mr Speaker, just to cut through the Gordian knot of his answer, the answer is yes. Yes?

490 **Hon. J J Bossano:** Well, Mr Speaker, the answer is yes, it is true that the Government has, for the last 15 years, been borrowing money from the public, and throwing it away in digging holes where the Theatre Royal has to be, and it is yes, that now the money borrowed from the public will be put to a much more fruitful use, which is economic growth and housing people. (*Banging on desks*)

495 **Hon. P R Caruana:** Mr Speaker, I wonder if the hon. Member would give me the opportunity to persuade him, that the answers that he has just give this House, are either not entirely accurate, or not the whole story.

500 Would the hon. Member agree with me, that in the past, as he calls it – I think he has referred to the last 15 years, to obvious political effect – that there has been, except for a few months towards the end of our last term, in respect of a relatively small amount, there has always been, in the Government reserves and the Savings Bank, more cash reserves than the Government owed, what he calls, savers; and that therefore, to the extent, that the Government was borrowing and spending money on its projects, its ability to repay savers was not in jeopardy, because the Government always had more cash in its reserves, and in the Savings Bank reserves, than either of them, or both of them, owed savers?

505 And will he agree with me, that the essence of the questions, which are not reflected in the essence of his answers, is that the Government is now structuring the Treasury affairs of the Savings Bank, and indeed its own, in a way that allows the Government to do something which no Government has done before, and that is to spend savers' money, in quantities which reduce the amount of reserves in cash, available to both the Savings Bank, and the Government, to repay those savers, should they all ask for their money at the same time?

510 Now, he knows what my views are, about the spending of savers' money, I have explained it in this House several times, by reference to what other European countries do. The difference is that we do not have that history here, and he knows my view, that there is nothing implicitly wrong with it, so long as it is transparent, and the House can see how much contingent liability under its guarantee of the Savings Bank, by the Government – a statutory guarantee of the Savings Bank – the Government may be making itself liable for, through this spending of money, without being matched by cash reserves. That is a transparency issue, and the other issue is that savers should understand, which requires a slightly less politically cynical answer than he has just given – a simple 'yes' would be sufficient transparency – that savers should now understand that savers' money is now being spent, either investing in these preference shares of this Credit Finance Company, which can then invest it however it pleases, or by lending it to the Government, so that it can spend it, however it pleases, subject to the approval of this House, through the

520 Budget. And that that has not been the case before, and that people simply need to understand, that that can now happen. And that both of those would be a considerable step forward to where we are today.

**Hon. J J Bossano:** No, Mr Speaker, I do not accept what he has just said.

525 **Hon. P R Caruana:** Yes, and therein lies the problem.

**Hon. J J Bossano:** The problem is in fact that what he has said is not accurate. That is, the Savings Bank has previously held, in its portfolio of investment, Government debt. Yes, it has, Mr Speaker. And it was his Government that introduced the policy of stopping the issuing of debt by the Saving Bank as saving instruments, and replacing it by debentures. And at the time that he did that, he said that he was doing it because of the need to keep the 10% reserve. He may have forgotten it, but I remember. The net result of that is that he is now arguing that somehow, if the Government borrows £100 million from him, that is something that he, as a saver, should be told, that they borrowed the money to make use of it in Government spending – if it is in the Savings Bank, but there is no need to do it if it is issued directly by the Government, as a Government debenture.

530 Well, look, it is exactly the same thing. If the hon. Member puts his savings in the Savings Bank, which is guaranteed by the Government, and the Savings Bank invests that money in a Government debenture, apart from the fact that it appears twice, once in and once out, it is exactly the same. With the same guarantee, the same maturity, the same rate of interest, and used for the same purpose. The £100 million will be used for the same purpose as if the Government had chosen to do, what he was doing when he was in Government, which was to say, invite people to invest in a £100 million of five-year Government debentures. And that would have been savers' money.

540 Or is it that the definition by the Members opposite is that you are only a saver if you put it in the Savings Bank, and you are not a saver if you save it by investing directly in Government debt?

545 **Hon. P R Caruana:** No, Mr Speaker. If I could just ask him further – answer him in the form of questions, just to keep within the Rules of the House.

550 Does the hon. Member accept that, of course, we understand that you can be a saver, whether you put your savings in Government debentures, or in Savings Bank debentures; and all of the answers that he has given me, to my supplementaries, continue to obfuscate the real issue; and he is debating with someone... well he is not debating, he is answering questions from somebody who has a very particular view about these things; and he is going to lose this argument with this person? At least in this person's mind, through simple lack of transparency, and lack of clarity, with the people of Gibraltar.

555 Yes, Mr Speaker, look, it is not the case... I am going to go back and check it, but I am 99% clear that the Gibraltar Government has not, during the last 15 years as he calls it, sold debentures – or put the other way, that during the last 15 years, the Gibraltar Savings Bank assets have not included Government debentures. In other words, in my time, the Gibraltar Savings Bank did not lend its savers' monies to the Gibraltar Government. He has now said twice this afternoon that that is the case, and I am telling him that I am 99% certain – I will check, and if I am wrong, I will tell him, and I will confirm it in this House next time I come – that that is not the case.

560 But whatever might be the answer to that question, does he accept that he has not answered the essence of one of my previous, admittedly convoluted, supplementary questions, which is that the qualitative difference of where we are today and where we have been in the last 15 years is that it is no longer the case now, as it has been over the last 15 years, that in terms of *risk* of the money, *risk* of the Government's fiscal position deteriorating, and not being able to make good this money that it is borrowing from the Savings Bank, so that the Savings Bank will in turn not be able to repay it to its savers? The crucial difference now is the absence of a matching cash reserve.

565 At any time in the last 15 years, if anything had required it, the Government had the right amount of money in the Bank of England, and elsewhere, to say, 'Okay, have your money back, everybody.' That is no longer the case, because it is spending it on its own projects now, rather than having it in cash in the Bank of England, or in near cash, short-term paper, as had been the case in the past. All compounded by the fact – does he accept? – that because he will not answer the questions about the Credit Finance, we cannot even gauge in this House, how much of that money is being spent by Credit Finance, in what nature of project it is being spent, and therefore gauge its repayability, and hence gauge the risk to which it is being subjected.

575 Sorry, I should... can I just put a question mark on the end of all of that?

580 **Hon. J J Bossano:** Mr Speaker, I have not said to the hon. Member that he issued debentures from the Savings Bank and then reinvested them in Government debt, in the last 15 years. I have said it is not the first time this has been done, and in fact the first thing he did in 1996 was to repay the Government debt that the Savings Bank held.

585 Now, he is entitled to have done that, and we are entitled to do the opposite, and there is nothing right nor wrong about it, except that there is an inescapable flaw in his analysis. He says, if the Government borrows the £100 million from the public, then it is safe, and it is alright to spend it. But if the Government borrows the £100 million from the Savings Bank, it ceases to be safe, and therefore it should not be spent. Well, that argument, with all due respect to him, is complete nonsense. There is no difference in the level of security, whether the debenture is issued by the Government, or the debenture is issued by the Savings Bank, and used for the same purpose that the debenture from the Government would have been used.

590 In fact, nothing would change, if tomorrow, the Government said to the Savings Bank, 'I am repaying your £100 million by borrowing directly from the public', and the money would be used in the same way, going to the Consolidated Fund, be voted out of the Consolidated Fund, and transferred to the I&D Fund, and be spent on capital projects, and that is the only money that is being used, or will be used to fund Government capital projects. Which is the answer to the supplementary that is being asked, in relation to  
595 the question about the £100 million.

And when it comes to the amount of cash, the hon. Member knows that if it is short-term money, and people can come and say, 'I want my money back', then the money that is in cash, or near cash, in the Savings Bank is still there, to the tune of £500 million or thereabouts, and that any money beyond that, by virtue of the legislation that we introduced, has to be invested in instruments that cannot have a longer  
600 maturity than is owed to the saver. In fact, I pointed it out at the time, when we were raising this matter, that the reality of it is that the liquidity risk that is true of every bank, including the bank in which the Savings Bank puts its money. Because the hon. Member seems to be saying, 'If I have £100 million in Barclays Bank, it is safe, but if I have £100 million with the Government it is not safe', even though the Government, in any case, guarantees both the debenture, and the savings.

605 Well, the reality of it is that it is impossible for the Savings Bank to have a liquidity problem of not being able to pay back savers, if they came back for their money tomorrow, because the money of the savers that is due tomorrow is backed by cash. And the money of the savers that is due in five years time is backed by something that has got security, several times worth that money, and due to be repaid before that date. So, there is no risk of any liquidity crisis, and there is no risk of the savers not being able to  
610 withdraw their money. But of course, if Members opposite are concerned about that, then they should advise those that they advise, or those that take their political lead from them, that they should find a safer home for their money than the Savings Bank.

I can tell the hon. Member that the only problem the Savings Bank has today is that it may have to start closing opportunities for savings, because the money is pouring in.  
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**Several Members:** Hear, hear. (*Banging on desks*)

620 **Hon. P R Caruana:** Mr Speaker, the hon. Member is, of course, right in what he said to me in the first half of his answer, but he is attributing to me statements that I have not made. Of course, from the point of view of the security of savers' money, it makes no difference, whether it lends it directly to the Government and the Government spends it, or whether the savers lend it to the Savings Bank, who then lend it to the Government who then spends it. In terms of the affordability of the Government's ability to repay it in the future, and therefore the security of the savers' money, it is exactly the same thing.

625 But my second round of supplementaries was not aimed at that, and did not say that. What I was talking about was what he has addressed in the second half of his last answer, which is about the consequences to the potential security of savers' money, which of course, we all understand is guaranteed by the Government, but if the Government gets into financial difficulties, as Governments all over Europe and elsewhere have got, in the last two years, the Government will not be able to make good on that guarantee.

630 Now, as I understand what the hon. Member has said, towards the end of his last answer, was that that in fact is not the predicament, or the risk, to which savers are exposed. Because, in fact, there is a cash reserve, in respect of monies, the origin of which is savers, if I could just put it that way, debenture holders, as opposed to, which is not covered by cash reserves, Government's own monies that are being put through this structure, and that therefore savers are not at risk, although the Government's other funds  
635 might be.

Now, Mr Speaker, all that is very well, but how does this Parliament, that has the obligation, and indeed the requirement, to monitor the extent to which that statement is true...? And we should not have to just depend on the fact that the hon. Member answers questions, supplementaries to that effect. We are entitled to see official statistics that show what are the holdings of cash reserves, how much, and sub-  
640 divided, are the funds of the Government and of the debenture holders, and *test* on a constant, ongoing and regular basis that the statement that the hon. Member made, distinguishing between the funds that were at risk, Government's, and funds which are not at risk, savers', is in fact the case.

Would the hon. Member undertake to provide this House information, on an agreed structural basis, that allows us to make that distinction?

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**Hon. J J Bossano:** Mr Speaker, the information is published, when the audited accounts of the Savings Bank are published as part of the audited accounts of the year, and they have been given to the hon. Member in the last question that he asked about the breakdown of the assets of the Savings Bank. *(Interjection)* Now, the fact is that what he calls cash, let us be clear, is not without a risk. It is the same cash that there was there before, but ‘cash’ means things that have been bought in the stock exchange, which have got a short life. *(Interjection by Hon. P R Caruana)*

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Right, well, he will find that the breakdown was provided to him, in the answer that I gave a month ago, and it is all there. I do not know at what more frequent intervals... I know of no other bank that provides its balance sheet, except once a year. We provided it more frequently than once a year. And therefore the answer is, the hon. Member has already had that information – indeed, it was as a result of that information that they put a question about the £100 million debenture. They would not have known about the debenture, unless they had seen it in that list that I gave him.

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**Hon. P R Caruana:** Mr Speaker, the quality and extent of the information that I think this House is entitled to, and is at the core root, of the Opposition’s continuing unhappiness with the current situation, is not disaggregatable from the information that he gives us in the form that he gives us.

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For example, he will recall, when we last had an exchange between ourselves that he had to concede to me, after several supplementaries, that the amount of capital involved in those numbers – I think it was in the £334 million, or a figure to that effect, I cannot quite remember what it was – included the contents of the Government’s special fund known as the Currency Note Security Fund. So it is not just a question of knowing the total amount of money that the Government has invested in this way, in the purchase of preference shares or whatever. It is the fact that they should be funds that the Government should not be spending, because once they go into the Credit Finance Company, the Opposition, given that they will not answer the questions, cannot see how much of it is being spent. So on the basis of the manner in which the information has been provided, so far, which we say – I say, at least – is insufficient for the purposes that I was describing in my previous supplementary. It is not just the amount; it is what sort of Government funds are they, and should the Government be spending those funds?

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For example, the Government should not be spending the Currency Note Security Fund. I am sure that they would agree with that. But if it all goes into this gross number, and into a company which can spend it without regard to that characteristic of the money, the Opposition is simply not *able* to see how much money the Government is spending, and is it all Government... that is *spendable* by the Government.

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**Hon. Chief Minister:** Mr Speaker, it is just not true that the Government is not answering questions on Credit Finance. What happened last month, something which I am sure hon. Members opposite have eternally regretted – and I am pleased that they have confirmed to GBC that they will not be walking out this month – is that they were told, very specifically, which question would not be answered, which was the identity of borrowers.

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Now, hon. Members will have seen a lot of questions already answered today, in relation to Credit Finance, an exchange now between him and the Hon. the Minister for Inward Investment, in respect of aspects of the way that the whole of the borrowing and lending is structured. The breakdown of information, which was provided last month, Mr Speaker, to a question, I think, from the Hon. the Leader of the Opposition, as to exactly, how much of the money there is in the Savings Bank is invested where, etc.

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So, Mr Speaker, I have heard him say it now, and I have heard the Leader of the Opposition be quoted by GBC as saying that the Government is not answering questions on Credit Finance Company Ltd: that is not true, Mr Speaker.

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The Government has spent already the better part of an hour today, answering questions about Credit Finance Company Ltd, and Mr Speaker, what they had last time... I do not understand what it is that they think is so funny, Mr Speaker. They are the ones who say *(Interjection)* that this is an important issue for our community, Mr Speaker. I agree, it is an important issue for our community, Mr Speaker, when we have an Opposition that decides to walk out of Parliament because it cannot make arguments.

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Mr Speaker, the issue last month was that we would not give them the information they asked for, which they *knew* we could not give them. In other words, they asked a question which they knew was incapable of answer – as if they said, ‘Would the hon. Members on the Government benches please provide copies of the medical notes of every registered Gibraltarian?’ Well, Mr Speaker, those medical notes are as confidential as the loans that are granted by any licenced money lender. Those are the questions that the Government will not answer, and the public have seen through this, Mr Speaker, and they know that it is right that we should not answer that question.

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705 But it is not true, therefore, that the Government does not answer questions about Credit Finance. There are a number of more questions, on the Order Paper, that we are about to get on to, which will provide more details, and we have already provided the details requested by hon. Members to date, in this session in respect of particular projects, which they have asked whether the funding has come from Credit Finance or the Gibraltar Savings Bank.

710 Mr Speaker, I think, it is important that that should be clear to the community.

**Hon. D A Feetham:** Mr Speaker.

715 **Hon. P R Caruana:** Can I just finish my supplementary? Mr Speaker, first of all, I do not where that leaves the answer to my supplementary, but to the extent that the Hon. the Chief Minister's last intervention is a comment on my behaviour, given that I walked out too, I have to tell him that I think his characterisation of what led to that walkout – which in my view was entirely justified, and I, for my part, would have no hesitation in repeating it, if this current situation prevails –

720 **A Member:** (*Interjection*)

725 **Hon. P R Caruana:** – is not as he has described it. Look, with the greatest of respect to him, it is hardly the same thing to ask for the personal medical records of anyone, let alone everybody. That is hardly the same thing as expecting this Government to be accountable in this Parliament for the financial affairs of a Government-owned company, directed by civil servants, for which the Government is accountable in this House, using public funds for which the Government is accountable in this House. Otherwise, does the hon. Member really believe, that it is so simple to circumvent the normal Parliamentary democratic checks and balances, for a Government simply to put its money in a company, and then say, 'I will not tell you who I have paid the money to'? So for all we know... because it is in a company. 'Just as Nat West and Barclays Bank do not tell people who they have lent money to' – well, actually, they do –

**Hon. Chief Minister:** Mr Speaker, that is not the position but –

735 **Hon. P R Caruana:** Well, Mr Speaker –

**Hon. Chief Minister:** Will he give way, Mr Speaker?

740 **Hon. P R Caruana:** Well, Mr Speaker, I will give way... I have nearly finished. If he does not mind, I will just finish.

745 This is not about whether the Government will provide, or will not provide, information that is commercial in confidence. That is *not* what this is about. This is about the Government consciously organising the affairs of the Savings Bank and of itself in a manner that prevents this Parliament – of whom he is the Leader, (*Banging on desks*) and of whose competences he should be the guardian – it is about the Government organising its affairs in a way which prevents this Parliament from understanding and knowing about and monitoring (**Several Members:** Hear, hear!) and holding (*Interjections*) the Government to account for the potential future solvency or insolvency – and I hope, solvency. This is not about whether there is present risk; this is about this Parliament's inability to see whether, and to what extent, there is risk.

750 And if he does not understand that, then I am afraid he has not understood everything that has been done by his Government, by other Ministers.

**Hon. Chief Minister:** It is you who does not understand it.

755 Mr Speaker, it is *him* that does not understand it, although I do understand that the little drummer boy, and the little drummer girl, sitting next to him do want to praise him, because they were better off under his leadership than they are under their own.

Let us be clear, Mr Speaker – (**Hon. D A Feetham:** Boo!) (*Interjections*)

Mr Speaker, the hon. Gentlemen is now taking to booing this Parliament. He much more deserves the epitaph of –

760 **Mr Speaker:** May I intervene for a moment.

For the last hour, we have had a mature series of exchanges, on a matter of great importance. I therefore call upon Members to maintain the tenor of those exchanges, and not to resort to childish behaviour.

765 **Hon. Chief Minister:** Thank you very much indeed, Mr Speaker, I may now be able to get through my answer without being heckled.

Now, Mr Speaker, what has been the tenor of the hon. Member's last intervention has been to say – and this is when I asked him to give way – that the Government would not say what payments a Government company is making, or what payments are being made with savers' money, so in effect, not being able to analyse those payments. Well look, Mr Speaker, he accuses me of not understanding. Did he not understand that the £100 million that we are talking about, we are talking about going into the Consolidated Fund, which is subject to the control of this Parliament; that before it goes into the I&D, it will go through an Appropriation Bill in this Parliament – ? (*Interjection*) I am going talk about that, and the other thing you were talking about as well.

775 And thirdly, Mr Speaker, that in the I&D section of the Appropriation Bill's schedule, the Estimates Book, as we know it, they will see a breakdown of what the money is being spent on. That is the first part, Mr Speaker.

The second part, the question of what we would not agree to provide, in the context of the debate last month, which he said he would happily have supported a walkout of, well, I am surprised, Mr Speaker, because if anybody goes back and watches the video, he looked extremely surprised that anybody was going anywhere, and very reluctant to pack his bags and go. Although some of us think that he should be less reluctant, and should now have decided that he should allow the seat to go to somebody who is going to be more active. But, anyway...

785 Mr Speaker, what we said we would not answer was exactly what he has identified, namely the commercially sensitive aspects of the question: who has borrowed what money – in other words, Mr Speaker, the loans. He knows, Mr Speaker – he does not like my example about medical notes, but he knows, Mr Speaker – that the British Parliament, the British taxpayer, capitalised some of the biggest banks in the world, some of the British banks. Mr Speaker, that does not mean that the Rt. Hon. the Prime Minister is answerable in Parliament for the loans given by those banks, at least since the date that those banks were capitalised by the British taxpayer. It does not make any sense, Mr Speaker. There are aspects of the financial management of people's affairs, which are as confidential as their medical notes. That is the *only* question we failed to answer. And that was the pretext, and I use that word advisedly, on which they decided to walk out last month.

795 There are more questions on the Order Paper, and Mr Speaker, perhaps what the hon. Gentleman needs to do is just accept that we have not got through it yet, because there is a lot of requests for information, which they have made for the *first time*, this time round in this Parliament, and which they are about to get. So, if he is going to accuse us of not disclosing things, he may at least wait until we answer the questions, when they have been asked for the first time. (*Interjection*)

800 **Hon. P R Caruana:** Mr Speaker, my sense of freedom to give up my seat in this Parliament is the direct symmetry, in the opposite, of the danger into which he habitually plunges Gibraltar, and to the extent to which I feel that Gibraltar can be left in his hands, without, at least someone with 15 or 16 years of chief ministerial experience, to not let him get away with some of the things that he is doing, when I consider that they are important enough. And what he calls inactivity has been disturbed on this issue, for 805 the first time in nearly 18 months, *because* it is so important, and I fear that the person who does not understand what he is talking about is not me, but him.

Look, Mr Speaker, he may think – and I accept that he often gets away with it – he may think he can divert the attention through the use of some unrelated argument, from the original serious matter that is being debated.

810 But look, will he agree that the sense of what he has just told me can be tested in this way: because he says it is absurd – just as it is absurd for the Prime Minister in England to be asked what loans National Westminster Bank is making, which is capitalised by the Government – that it is absurd for this Opposition to ask the questions in this House that it is asking? Does he not recognise the following obvious differences, and that is that National Westminster Bank in England, having been capitalised 815 transparently by the government, is not then run by civil servants, for whom the government is responsible in the House of Commons; and it is not run by civil servants who are under the direction of ministers of the UK government; and it is not run, therefore, as an unaccountable, in Parliament, extension of government; but rather as an independent body – National Westminster Bank – subject to the regulation of the Financial Services Authority in England, to which... this Government has refused to 820 make the Savings Bank accountable to the Financial Services Commission?

Each time he draws the analogy between what we are complaining about, and the British Prime Minister and the National Westminster Bank, or RBI, because it has been funded by the Government, he demonstrates either a huge degree of ignorance, or a huge degree of thick skin, to pretend that what is black is exactly the same as what is white, when everybody can see the difference – as well as doing the 825 Prime Minister a considerable disservice in the United Kingdom.

**Hon. Chief Minister:** Is that a question?

830 **Hon. P R Caruana:** Finally, would he agree with me that his suggestion that loans made by this Civil Service-run, ministerially-directed, Government-owned company with public funds, that the answer that he has given to me, about how silly it is for us even to ask about the loans, would enable – whether they do it or not is another matter – would *enable*, and that is enough for this Parliament to be concerned with, the finance company that we are discussing, to lend money to another Government-owned company, through which projects can then be done? And that money would not come anywhere near the  
835 Improvement and Development Fund, because Credit Finance can lend through the action of its directors, civil servants, for which the Government says it is not accountable in this House, to Gibraltar Investments, or Gibraltar Property Holdings, or GRP or JBS, or any of the other Government-owned companies, up to the £300-and-odd million that have been invested in preference shares with Government monies, and that is completely off the radar screen.

840 And the hon. Members think that that is the position that the Prime Minister is in, in England, in relation to the Royal Bank of Scotland! Well, he must think that everybody in this House, and everybody in Gibraltar listening to him, are idiots, because it is plain to anyone with an ounce of common sense that they are simply *incomparable* situations. Would he agree with that?

845 **Hon. Chief Minister:** Mr Speaker, the hon. Gentleman, really, has either gone past his prime much sooner than anticipated, or is now completely unable to remember the things that he said. And *Hansard*, Mr Speaker – (*Interjections*) Well, Mr Speaker – (*Interjections*) I am sorry, Mr Speaker –

850 **Mr Speaker:** May I...? I would ask the Chief Minister to refrain from those comments.

**Hon. Chief Minister:** Mr Speaker, can I ask you to also ask Mr Caruana, to, when he makes submissions – Sir Peter Caruana, in fact, to give him his full title – when he asks questions to also keep temperate, because he has referred to idiots in this House, and I do not think it is necessary to lower the temperature.

855 But Mr Speaker, let us be very clear, whatever it is that has happened to the hon. Gentleman, Mr Speaker, he does not seem to remember what he said before he sat down, asking one supplementary, when he gets up to ask another.

860 He has now said – and I have made a note of it – the Government says that it is not accountable in this House for Credit Finance. Well, Mr Speaker, I have said *the complete opposite*. The one thing that Credit Finance might invest in, and we might all agree is a good investment, is one of those ‘instant *Hansards*’ so we could all have a screen in front of us, and I could go back and show him exactly what it is that he has said! Because I have no doubt that he will now get up and say that he did not say that – although I have got a full note of what he said.

865 *Of course* the Government is accountable for Credit Finance Company Ltd. The only thing the Government has, to date, said it will not provide, in relation to Credit Finance Company Ltd, is the names of people who borrow from it – the *names*, the *identities* of the people who borrow from it. The one thing that he said in his previous intervention, he accepted we should not give – namely, things which are commercially sensitive. He does not like any of the comparisons that I do.

870 Well, Mr Speaker, I do not care that he does not mind about any of the comparisons that I make, but I certainly do not treat people as if they were idiots, Mr Speaker. I do not go around talking to Ministers for Europe, telling them that I might be prepared to do an Andorra style solution and then be surprised when – (*Interjections*) [*Inaudible*] they proposed joint sovereignty.

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

The matter is now going beyond the subject of these questions and answers. Therefore, if hon. Members continue in that manner, I will bring to an end this series of questions, and ask the Clerk to call the next one. (*Interjections*)

880 **Hon. P R Caruana:** Mr Speaker I have one other supplementary question.

**Hon. Chief Minister:** Mr Speaker, I have not finished –

**Hon. P R Caruana:** Oh, I thought that you had.

885 **Hon. Chief Minister:** I assume that Mr Speaker, as long as I stick to the issue, will allow me to continue with the answer.

Mr Speaker, I do want to say, however, Mr Speaker, that the hon. Gentleman started his intervention by alleging that I take Gibraltar into danger habitually. He said that I plunge Gibraltar into danger,

890 habitually. Well, Mr Speaker, that is the point that I was answering, because of course, I do not accept that point, and he needs to be careful, Mr Speaker, not to believe the things that people that he habitually has not trusted, just because he might find that, in some way, they help him to make his points today.

895 Anyway, Mr Speaker, this question of the Savings Bank: there are two issues here. First the issue of the £100 million, and on the issue of the £100 million, the position is clear: that £100 million is in the Consolidated Fund, it is subject to the control of this Parliament. Therefore, this Parliament will vote what happens with that money – full transparency. It will not even move from the Consolidated Fund into the I&D Fund – the Improvement and Development Fund, for those who are watching or listening – without a vote of this Parliament under the Appropriation Bill. And then, Mr Speaker, the breakdown of that £100 million will trickle through into what he and I know are the pink pages of the Estimates Book, so people will see exactly where that money is going. That is one limb of the argument.

900 The second limb of the argument is the money in Credit Finance Company Ltd: the only thing the Government has said it will not provide are the names of the borrowers – the names and amounts of those loans which are being given, Mr Speaker – because those are the commercially sensitive aspects of the issue.

905 But other than that – and this is what he has not picked up, Mr Speaker, and what I see from people chomping at the bit to stand up and ask another question – the other bit that they do not seem to have picked up is that there are a lot of other questions on the Order Paper, asking for details about Credit Finance and how it spent its money, and we are being accused of not giving answers, Mr Speaker, although we have not yet got to the questions!

910 **Hon. P R Caruana:** Well, can I ask one more question?

**Mr Speaker:** Yes, certainly – and then I will call on the Leader of the Opposition.

915 **Hon. P R Caruana:** Mr Speaker, first of all, I am very happy to hear the Hon. Chief Minister answer repeatedly about the £100 million. My questions were not about the £100 million, those are perfectly transparent – I do not know whether they were in the Consolidated Fund or in the Improvement and Development Fund, but whichever of the two they are in, they need the appropriation of this House for expenditure. Well, I have not said anything about that. I am talking about the £340-odd million that are in the preference shares in the Credit Finance Company.

920 Mr Speaker, look, I suppose the hon. Member would agree with me say that, of course, we can have a debate, although the Speaker, obviously, will not allow it now, about what the word ‘accountable’ means, but I do not want to address that issue now.

925 He may think, he may *think*, that in respect of a company that has £340-odd... forgive me I cannot remember the exact figure, £340 odd million, or whatever – the figure is not the issue – that he is being accountable, if he tells us other information, but not who the money is being lent to. But Mr Speaker, that is *precisely* the subject matter, in respect of which accountability is required.

930 If a company is in the business of giving credit finance, and you will not be told what credit finance it is giving, to whom and for what, what sort of accountability are we talking about. Whether the CEO has tea or coffee in the morning, or whether he has one or two lumps of sugar in it. But it is certainly not transparency, about what this Parliament needs transparency, which is, what is this company doing with the money that the Savings Bank has invested in it, through preference shares. If the hon. Member were to say, look... and this is how we used to use the phrase ‘commercial in confidence’. He often attributes to me recourse to that device. ‘Commercial in confidence’ was only ever whilst negotiations were in progress, but once the Government does a deal and converts it into documentation, he never heard us say ‘commercial in confidence’.

935 ‘Commercial in confidence’ means that you do not give information publicly, at a time that it could prejudice the public interest by prejudicing the negotiation, by arming the other party with information that would be useful for them to use against the taxpayer in their negotiations with the Government. That is what ‘commercial in confidence’ means. It does not mean a permanent... at least, in my understanding, of what accountability means, it does not mean, that there is a permanent refusal, permanently to tell this Parliament who civil servants have decided to lend monies invested in the finance company, by the Savings Bank, to and for what.

940 But look, if that is the hon. Member’s definition of accountability, then we shall just have to disagree, without having to get, sort of, over passionate and overaggressive, we shall just have to agree about (a) what the word accountable means and (b) about the degree and nature of accountability to which a Parliament is entitled, if it is to be able to be seen to be doing its job. And I am sorry that he thinks, but I console myself by the thought that he appears only to think it when he gets angry with me, that I should resign my seat in this Parliament.

950 **Hon. Chief Minister:** Well no, Mr Speaker, it is not that I think it when he gets angry, it is that, of course, it is matter for him, and I am very pleased at the tenor of his intervention now, because it is completely different to the tenor of his earlier intervention, and it is conducive to continuing –  
 (Interjection by Hon. P R Caruana) Well, I mean, for those who cannot hear him, because in a sedentary  
 955 position, he says that it is not a different tenor; it is the same. Well, I have not heard him say that I plunged Gibraltar into danger, and I have not heard him say that I am not accountable for things, so maybe it is that we really must invest in that screen, so he can go back and see himself a few moments ago.

But anyway, Mr Speaker, I believe that the tenor of his intervention now is more conducive to resolving the... I hesitate to call it ‘debate’, the issue that has arisen in the questions. (Mr Speaker:  
 960 These exchanges.) These exchanges.

Mr Speaker, look if the only issue between us is – (Interjection by Hon. P R Caruana) Well, if the only – well, let us see whether we can whittle it down. Let us see whether we whittle it down, because then the public will understand what the difference is. If the only issue between us is the names of the borrowers and the amounts of the loans, then that is completely different, Mr Speaker, and this is why I  
 965 say to him, ‘Bear with us, we have not got to the end of the Order Paper yet’, because there is a lot of information that has never been asked for before, which when they have asked for it, we are about to give. And in that context, Mr Speaker, maybe he gets much more comfortable with the issue, and is left only with an issue of what I have called not ‘commercial in confidence’, I have called ‘commercial sensitivity’.

Now, of course, Mr Speaker, when you are dealing with people’s borrowings, there is, in our view, commercial sensitivity. That is an issue, Mr Speaker, that he may realise by the end of this session, is not so relevant to risk, which is how he started this part of the supplementaries – (Interjection) Risk and transparency, and I accept that he said both those things. Right.

So in that respect, Mr Speaker, let us get through the issues that we are dealing with, let us look at what information is going to be put in the public domain, in the context of the next questions. Let us understand, what has already been put in the public domain. Because the hon. Member has said, ‘Well, you could fund any of these projects by simply doing it through a company.’ Look, I do not know whether he was in, when we started this afternoon – I assume that he was, I think he was in from when we started. (Interjections) We have just answered 50 questions about projects, and been asked, and I think it  
 975 is more or less the whole of the manifesto, whether we have funded them, or will fund them, directly or indirectly through Credit Finance, or the Gibraltar Savings Bank. And we have said no. So, Mr Speaker he also has that comfort, to put into the context in which the whole of these answers are being given.

But, Mr Speaker, if I can just say one thing, and he will recognise this language, and I have used it today in an intervention on radio. The Hon. Peter Montegriffo, who was the founder of the GSD, a man who was in Government with the hon. Member opposite, said on television two weeks ago, I think exactly today, something which I have echoed, and I am sure that we can echo across the floor of this House: what is very clear, is that there is no risk whatsoever to depositors in the Gibraltar Savings Bank, and it would be irresponsible for anybody to interpret these exchanges, in any way that suggests the opposite. (Interjection)

990 And I give way to the hon. Member.

**Hon. P R Caruana:** I am grateful, Mr Speaker.

I did indicate it was my last supplementary, so I did not want to get up again.

Mr Speaker, the Hon. the Chief Minister’s allusion to the statement made on television by my  
 995 erstwhile Deputy Leader is hugely apposite, because it allows me, finally, and before... My conscience is clear, I have expressed my views, in this Parliament, as is my obligation. They do not get any more persuasive through repetition, so I do not intend to repeat them, but, the distinction between risk, and ability to gauge risk, which is why I am calling for transparency. It is not my position that there is today presently risk, in the sense that the money has already been spent, and the Government already cannot repay it. That is what you would have to be saying, in order to say that there is already risk.

With the greatest of respect to Mr Montegriffo, he like us cannot *know* whether there is risk, and that is what I am complaining about. Because, he does not *know* exactly what is going on, and therefore he cannot know, what might be the risk today, tomorrow, next month, next year, three years from now, five years from now. And therefore neither, Mr Montegriffo, nor the Opposition – at least not me – neither of  
 1005 us can say that there is today an inability to pay savers’ money, or that the Government can today not repay the savers’ money, and therefore that there is risk in that actual sense.

But it is true of both me and Mr Montegriffo, which is why his answer therefore, his statement therefore, in my humble, and increasingly irrelevant opinion, is not particularly meaningful, is that he is making a statement of fact, without an ability, ongoing through time, to assess whether or not the statement is true. In other words he *hopes* that there is no jeopardy, as I hope that there is no jeopardy – I  
 1010 am not saying there is jeopardy today; all I am saying is that with this structure, would he agree, that with

this structure the Opposition's ability to gauge whether jeopardy is developing, when and in what quantity, is absent, and therefore, it is the transparency point which is a different point to the risk point.

1015 **Hon. Chief Minister:** I gave way, Mr Speaker, to the hon. Gentleman, and would say this, Mr  
Speaker: I actually think that Mr Montegriffo's point is a very valid one, and a very appropriate one  
(*Interjection by Hon. P R Caruana*) for this reason, for this reason, Mr Speaker, and I think he will agree  
with me, by the time that we finish the session today, that if the only risk is the identity of the lender and  
1020 the loan, then he is going to see, Mr Speaker, by the end of this session that there is a lot of information in  
the public domain, which means that there is no question of not being able to assess that, Mr Speaker.

Now, unless he is saying, 'Until I know the nature of the covenant of the borrower, and I can only  
know that by knowing the identity of the borrower, I will not be able to assess risk.' Well, okay, Mr  
Speaker, I...(*Interjection by Hon. P R Caruana*) Well, Mr Speaker I think he will see that that is not the  
1025 case, and I am caught Mr Speaker, by the Rule that I should not give answers to questions that are coming  
on the Order Paper, but I think he will see by the end of this set of questions (*Interjection*) that we are not  
in any situation which, even the most uncharitable previous Chief Minister would care to see described as  
creating any potential risk for this community. (*Interjections*)

The savers in the Gibraltar Savings Bank have never been more secure, and by the end of this session,  
they will have seen why that is the case, and will continue to be the case, and will realise, Mr Speaker,  
1030 that the Government's assurances and Mr Montegriffo's own assurances are to be relied upon.

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

1035 **Hon. D A Feetham:** Yes, Mr Speaker, one of my supplementaries, and I hope that he deals with it in  
answer to the subsequent questions, as he has undertaken to do, is whether he accepts that the identity of a  
borrower is highly relevant to risk.

To take an extreme example, lending to a known impecunious borrower is obviously going to be risky  
when compared to lending to somebody who has the money, and therefore that kind of information is  
highly relevant to assessing risk, and is highly relevant in the exchanges that we are having across the  
1040 floor of this House.

But can I ask this supplementary: now he has repeated it on a number of occasions... He said that the  
only information that the Government has refused to provide are the names of the borrowers. Does he not  
accept that that cannot possibly be right, in the light of the question that I asked, Question 657? Because  
what I asked, and the answer from Mr Bossano was it is not considered appropriate to provide such  
1045 commercially sensitive information. The question was can the Chief Minister please provide a list of all  
investments, payments and loans made by Credit Finance Company Ltd since its incorporation, showing  
the amounts, the dates, those investments payments and loans were made, together with the identity of the  
party or parties.

In other words, he could have provided all the information, by just simply blanking out the identity of  
1050 the parties. Now, is he, in the light of the statements that he has made to this House that all the  
Government is refusing to provide is the identity... will he provide all the other information that I have  
sought in that question? (*Interjections*)

1055 **Hon. Chief Minister:** Mr Speaker, as he is about to find out, when we go through the Order Paper, he  
is going to get a lot of information. He is not going to get names, Mr Speaker, and he is not going to get  
breakdowns of loans, but he is going to get a lot more information.

Because, Mr Speaker, that is exactly, what we are saying is the commercially sensitive information,  
that is the only issue that we will not be dealing with. But I would invite, Mr Speaker, the House to go  
through the questions, and to come back, and to deal with supplementaries, once we have put all the  
1060 information out there. And then we can be dealing with issues, without there being information in the  
Order Paper that may go to some of the supplementaries.

1065 **Hon. D A Feetham:** Well, Mr Speaker, does he accept that a lot of information is not the information  
that we were seeking? Does he not accept that what the Government is refusing to provide is not just  
simply the identity, but actually, all the other information that I have sought, because the Government  
could have provided, for example, a schedule of all the loans the Government has provided, with all the  
amounts, with all the dates, and just simply blanked out the name of the individuals.

Now, that would not have satisfied us, as I have said publicly, but at least it is providing more  
information, and being more transparent, than just simply refusing to answer it blank. And does he not  
1070 accept that therefore the statement that he has made to this House, that all the Government is refusing to  
provide is the names of the borrowers, is just simply not accurate?

**Hon. Chief Minister:** No, Mr Speaker, I do not accept that.

1075 But perhaps he would accept that he simply, and he left the House, Mr Speaker, saying that he was shocked, but that he expected the answer. Now, those are conflicting statements, if ever there were conflicting statements, Mr Speaker.

But, he did not ask a supplementary. He did not say, 'Well, is it that you will not give me one piece of information, but you will give me the other?' He simply said, Mr Speaker, 'This is *shocking*, we are walking out.'

1080 If he goes to the end of the Order Paper, he will realise he is going to get a lot of information, Mr Speaker, some of which was what he asked for last time, short of the names, Mr Speaker, so we will see exactly where it is where we get to. Perhaps if he accepts my invitation, to ask the questions and come back by the end of those questions, we will be in a better position.

1085 **Hon. D A Feetham:** But, Mr Speaker, the Hon. the Chief Minister, again, is just simply not being accurate with his answer. The question that I asked was capable of being severed in different parts. In other words, it was capable of being answered by just simply blanking out the names of the borrowers, and providing all the other information. The answer to the question was, 'It is not considered appropriate to provide such commercially sensitive information.' – in other words, all the information that I was seeking, not just simply the identity of the borrowers.

1090 Now, in the light of the statements that he has made to this House, will he undertake to provide all the information that I asked in the question, this Question 657/2013?

1095 He is inviting me to ask, or what he is saying is I should have asked a supplementary of Mr Bossano. Well, in the light of that, let us assume I made a mistake: alright now, will he undertake to provide all the information, with the names of the borrowers blanked out?

**Hon. Chief Minister:** Mr Speaker, I have said repeatedly to him that he should continue asking the questions on the Order Paper, and at the end of that, see what information he does not have. (Interjections) Mr Speaker, I do not know what it is that he wants to do in this Parliament, whether all he wants to do is grandstand, and keep asking the same question, in order not to get through to the stage where he will have a lot of the information that is about to come.

1100 Is it that he just thinks that he will be able to persuade people that the Government, for some reason, is not giving the information, which the Government is about to give him. Well, look, Mr Speaker, at the end of the afternoon, he can say, 'I still do not have this information, can I please have it? Can I persuade you that it does not affect the commercial sensitivity?'

1105 But what is the point of continuing now, when I am telling him that I am about to give him information?

1110 **Hon. P R Caruana:** Mr Speaker, may I make a small point of order, just so that we all know exactly what was said.

If the hon. Member is indicating now, as he has done several times, that in what is left of this afternoon, and the questions, we will get some of the information which we are hoping to get, in answer to the original question, that would be very good news, that would be warmly welcomed and I much look forward to hearing how the rigour of the original answer last time is going to be modified.

1115 Because, of course, Mr Speaker, it is not true as the hon. Members are discussing, on the premise of, that what Mr Bossano said, is only, 'I will not give you the names of the borrowers.' If you look at *Hansard* – I do not have it in front of me right now, but if you look at *Hansard* – what he actually said was, having read the original answer, which is the one that has just been bandied, he said words to the effect of, 'The Government will not account to this House for how the company makes its investments', or something like that. Well, that is a very much wider... I apologise to him if I am not exactly quoting him, but it was words to that effect, and as I say if it is not entirely accurate, it is semantics. That is a much broader implication, and that is what, in my mind, justified the walkout.

1120 Because what the hon. Member meant, appeared to be saying, when he said that the Government would not be accountable in this House for how the company made its investments, is a statement that he was not willing to account in this House on a much broader basis than the names of...

1125 But I am very happy to take the hon. Member's steer, indication that that position – which we may have misinterpreted, although I do not think so – but whether it was interpreted correctly or not, is going to be put into context in the rest of these answers.

1130 **Mr Speaker:** Next question.

**Hon. D A Feetham:** Mr Speaker, I have some more supplementaries in relation to.... [Inaudible] It is a different point –

1135 **Mr Speaker:** On other aspects of the matter? Very well.

1140 **Hon. D A Feetham:** Mr Speaker, just examining the relationship between the Gibraltar Savings Bank, and Credit Finance: now we know that £344 million has been invested by the Gibraltar Savings Bank, by way of subscription in preference shares in Credit Finance, and that the return is a return of 6% on those preference shares. The money, I assume – it must be the case, but I would like the Government to confirm it – the money is still within the Gibraltar Savings Bank, and effectively, it must be on an on-call account, does the Hon. the Chief Minister know what return is provided to Credit Finance Company for obviously then depositing the money back with the Gibraltar Savings Bank?

1145 **Hon. Chief Minister:** Mr Speaker, I have said repeatedly that there are questions on the Order Paper that will deal with this issue. I would invite him to go through the Order Paper and ask supplementaries at the end, including that one.

1150 **Credit Finance Company Ltd; Gibraltar Savings Bank  
Maintenance/refurbishment projects on residential estates**

**Clerk:** Question 752, the Hon. E J Reyes.

1155 **Hon. E J Reyes:** Mr Speaker, can the Minister for Housing state whether any maintenance/refurbishment projects pertaining to existing private/co-ownership estates are being funded, or the intention is to fund, either wholly or partially, either directly or indirectly, by (a) Credit Finance Company Ltd; or (b) the proceeds of monies deposited in the Gibraltar Savings Bank?

1160 **Clerk:** Answer, the Hon. the Chief Minister.

**Chief Minister (Hon. F R Picardo):** Mr Speaker, I will answer this question, together with Question 754.

1165 **Clerk:** Question 754, the Hon. D A Feetham.

1170 **Hon. D A Feetham:** Mr Speaker, can the Chief Minister state whether Credit Finance Company Ltd, has provided any loans, or payments, to the management company, of any housing estate in Gibraltar, or for the benefit of such an estate, identifying; (a) the housing estate in question; (b) the date of the payment; (c) the amount paid; (d) the terms of repayment including the length of the term of any loan, the interest payable and the security obtained?

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

1175 **Chief Minister: (Hon. F R Picardo):** Mr Speaker, as announced in my Budget Speech this year, the Government has agreed to provide soft loans to residential estates, for funding refurbishment projects.

Approved projects will receive funding, which would be repayable in a period of up to 10 years, at an effective interest rate of 1% interest per annum, with the Government funding the difference in the cost of finance by way of a grant.

1180 The financing of these estates, at commercial interest rates, is being provided by Credit Finance Company Ltd. Government will not, however, give the individual breakdown requested by estate and amount, as that is considered to be commercially sensitive information.

1185 **Hon. D A Feetham:** Well, Mr Speaker, obviously he is not providing the information that I asked in my question of last month, but can he, at the very least, for example, I mean, if we break it down to a very basic level. Can he give me the amount involved per estate, calling one estate *x* and another estate *y* of the monies being loaned to these estates by Credit Finance.

1190 **Hon. Chief Minister:** Mr Speaker, we are not going to give that sort of breakdown, but if he carries on asking me questions this afternoon, and I am inviting him to ask me supplementary questions at the end of this process, he will have a lot more information. It is up to him whether he wants to do that, or not.

1195 **Hon. D A Feetham:** Mr Speaker, I hope that this is not Baldrice's cunning plan, to sort of, gradually pushing the questions to the very end and then we run out of questions. (*Interjection*)



**Mr Speaker:** You may run out of questions on the Order Paper, but I will allow supplementaries on them as may be necessary.

1200 **Hon. D A Feetham:** Yes, Mr Speaker, that is very helpful, thank you very much.

Mr Speaker, does he not accept, therefore, that the statement that he made earlier, with a hint, in our respectful view, of grandstanding, which is his usual style, about the only information that the Government is unwilling to provide is the identity of the borrowers, does he not accept, in the light of the answer that he has now provided, that that is patently not so; that he is reserving to the Government far more information, in circumstances where he has actually prefixed his answer by actually saying the Government has agreed soft loans?

1205 This is a Government initiative. It is a *Government* initiative: the loans have been provided, on a Government initiative – a decision taken by the Government. Does he not accept that, therefore, the answer that he gave was inaccurate?

1210 **Hon. Chief Minister:** No, I do not, Mr Speaker, and we can accuse each other of grandstanding as much as we like.

What I said, Mr Speaker, and again, I wish I had that screen that gives you the immediate *Hansard*, was the identity and the loans, Mr Speaker. Because, look, we think there is commercial sensitivity here. There are different estates, asking for different things. That does not mean, Mr Speaker, that the hon. Gentleman does not have another solution that he can apply. Which means that he can write to every single one of the estates, he can write to the management companies, and if they want to give him the information about the amounts that they have borrowed, it is a matter for them. But we, as lender, Mr Speaker, are not going to give that information.

1215 1220 But this is an apposite moment, Mr Speaker, to reflect on what the hon. Gentleman is talking about. What information is it that he wants, and why does he want it, Mr Speaker?

Look, we are talking about – (*Interjections*) The hon. the backbencher says, from a sedentary position, that it is none of my business why they want the information. Well okay, Mr Speaker, it is none of my business. It is up to them, they can ask what they like – but it is none of his business what I answer, Mr Speaker.

1225 And there they have a resolution available to them: they can write to the very few residential estates that there are in co-ownership, or in private hands, and ask *them* if they are happy to have disclosed the amounts that they borrowed. And if they have that information, Mr Speaker, they can have it, and if they then can ask the estates whether they are happy for that information to be shared by them, publicly, then that is a matter entirely for them, Mr Speaker. They are the borrower, they can have that information disclosed.

1230 Our point of view, Mr Speaker, is that this is commercially sensitive information, from the point of view of the lender.

1235 But, what I am saying to him, Mr Speaker, is if he carries on asking me the questions, he is going to get a lot of information. It is not the information of who the borrower is or of the loans – he is not going to get that. But he is going to get a lot more information, and if the substance of what they have said in their press releases is what they really do care about, then they will find, Mr Speaker, that there is not much to worry about. (*Interjections*)

1240 **Hon. D A Feetham:** Mr Speaker, he again started his answer, by saying, and I quote him, ‘we as the lender’. Mr Speaker, that betrays the artificiality of the Government’s position and the Hon. the Minister for Employment’s attempt, last month, and indeed the Government in its subsequent communiqués, of actually seeking to create the impression, that Credit Finance Company Ltd somehow is at arm’s length from the Government, (**A Member:** Hear, hear.) which patently it is not. (*Interjections*)

1245 But, Mr Speaker, I started a supplementary, I asked a supplementary earlier on, and the Hon. the Chief Minister said that he was going to answer as part of subsequent questions. The point of that supplementary was to effectively look at, and examine, how the Opposition assesses the risk of the investment made in Credit Finance Company Ltd, from this point of view.

1250 But of course, the money from Credit Finance Company Ltd is being lent to third parties, or is being invested in third party projects. Now if we do not know, for example, the amounts, how can we assess the ability of Credit Finance Company Ltd, as an entity, to actually repay back to the Gibraltar Savings Bank, and how do we then assess whether there is a solvency risk, in relation to Credit Finance Company Ltd, for which the Government then, ultimately, has to pick up the tab, by way of the guarantee, that it has provided for savers’ money? Can the Hon. Chief Minister perhaps shed some light on that, and assuage the Opposition’s concerns in relation to that?

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**Hon. Chief Minister:** Mr Speaker, the fact is that they are not in Government; they are in Opposition, and there are a lot of decisions that we have to make about spending money which they are not able to micro-manage.

1260 For example, Mr Speaker, they cannot micro-manage how we spend on Commonwealth Park. They are entitled to see exactly how much we spent, and we have gone further and said, we will give you the final costs of Commonwealth Park and we will give you our estimates, as we were going on, as to what some things might cost, so that you can see whether we were able to bring things in for less than the estimate, or whether it cost us more than we estimated.

1265 Mr Speaker, in relation to this issue of Credit Finance, does he think that people do not realise, Mr Speaker, that we have spent the better part of an hour and three quarters now, answering questions about what Credit Finance will or will not finance, and that therefore he has caught me, when we have said 'we', well how could I have credibly answered any of these questions about Credit Finance, if we did not have some responsibility for it, and some control of it? Mr Speaker, it really is almost as if he is trying to make a point which is not relevant.

1270 But I will put the opposite consideration to him. He is talking, as he always likes to do, about solvency risk. Of course, Mr Speaker, that is a language that could cause people concern. But let me invert that question. What if there is, at the end of this process, as a result of the prudent investment of these monies, actually massive profit – if Credit Finance Company Ltd does so well for the Government that there is actually massive profit? I have heard somebody on the other benches, opposite, say that is irrelevant. Well, how can it be irrelevant?

1275 Mr Speaker, if all they want to do is, every month, put Credit Finance Company under the microscope, then the result of what they might see is that it is growing and becoming more and more profitable, and delivering an investment that is able to help with the liabilities of the Government – and then what, Mr Speaker? Then what? Then the solvency risk will not be referred to again? Then this systemic problem for the Government finances will have disappeared?

1280 Well, Mr Speaker, the fact of the matter is, that they are not the ones who are going to be making decisions about what Government invests in, whilst they are in opposition, and it may be that they are going to be in opposition for a very long time, and even forever. Because it may be that they never form a Government again, if other parties spring up. Look, that is not an issue on which we can have a debate. There is not a point of crystal ball gazing on those issues. Today, we are the Government, we make these decisions.

1285 He does not need to worry, Mr Speaker, about Credit Finance being anything other than an instrument of profitability for the Government, which is going to deliver great things for this community, and not invest in any of the things that we have already been asked about, and which it is not going to invest in.

1290 Now, if he will allow me, Mr Speaker, I am going to give him just a piece of very easy advice. It is not advice about how he should conduct his politics, or anything like this. It is just procedural, for today, Mr Speaker. Can we please get through all the questions that are left on the Order Paper, and have the debate – or rather Mr Speaker, the exchanges – at the end, when all the information that we are prepared to give is out there? That would make it easier for everyone.

**Hon. D A Feetham:** Well, Mr Speaker, if the statements that he has made to this House today, and that the Hon. the Minister for Employment and Inward Investment has made to the House today, are called 'answers', or he refers to them as 'answers to questions', the reality is that he has a fairly elastic view of what answers to parliamentary questions are, Mr Speaker.

1300 Mr Speaker, the reality is that the Opposition *cannot*, it cannot accept the Government's word for it. The Government has been dragged, protesting all the way, in order to get any kind of information from the Government about this. The Government refused to answer. On the Sunborn, in March of this year, when I asked about, whether the Government had either directly or indirectly provided any financial assistance to the owners of the Sunborn, he said no, and then a day after the by-election, we found out that there was a loan provided to the Sunborn.

1305 On Credit Finance, one would have expected that if the Government is investing £344 million of savers' and taxpayers' money in a company that is then being used in order to provide loans to housing estates, to individuals, that the Government would have come to this House and would have in this House explained the policy. But the Government kept it secret, and it is only because of the diligence and the questions asked in this House by the Opposition, that we found out that the Government is doing what we now know that the Government is doing. And now the Government is refusing to provide us with the information that allows the Opposition to do its job and to assess the risk that not only the Government is placing to savers' money, but more importantly, in my view, the guarantee, the taxpayers' guarantee, and the footage of the bill, ultimately, by the taxpayer, should some of these investments go pear shaped.

1310 Does he not accept that, if he does not provide the Opposition with the most rudimentary information, which includes the loans – the size of these loans that are being provided, the dates when these loans have been provided, and the terms and the security – then it is not possible for the Opposition to formulate a

1320 view about risk, and therefore it is not possible for the Opposition to make a statement, publicly, saying, 'Well, we are persuaded by the Government. Mr Picardo has persuaded us, in Parliament, that there is no risk to the taxpayer, there is no risk, because this guarantee, ultimately, will not bite because this investment is safe'? Does he not accept that?

1325 **Mr Speaker:** It does not seem to me that the Chief Minister is going to be successful in his endeavours to get the Opposition to move on to the remaining questions. Therefore, we are going to continue to take each question as it is on the Order Paper, and I will judge what are the supplementaries that are pertinent and may not be pertinent, and I will judge when I should bring matters in each question to an end.

1330 **Hon. Chief Minister:** Mr Speaker, I am, as you know, a proponent of the view that whatever one's office may be on this side of the House, and what it may mean outside of here, in this place the most powerful man in the Parliament is the man who sits in your Chair, so of course, I think that is going to have to be the way that we deal with it. I do not dispute that you will therefore have to now arbitrate, in respect of supplementaries and how they go on.

1335 I will deal with the issues that the Hon. the Leader of the Opposition has raised.

Well look, Mr Speaker, he says we have an elastic view of what an answer is. Well, he must have an elastic memory, as to what 'protesting all the way' has meant. He says that the only reason that the community knows about Credit Finance is because of their diligence in finding out something that was secret.

1340 Well, Mr Speaker, 'secret' has a meaning. It has an ordinary meaning in the English language. It does not extend to things which are filed in public – like, for example, the creation of a company called Credit Finance; for example the filing of mortgages granted by Credit Finance. So how can it be, Mr Speaker, that things are secret and have been uncovered by the Opposition, when in fact they have been filed on public record? It does not seem to me, Mr Speaker, that it is me or this Government that has the elastic definition of 'answer'. It seems to me that the hon. Member seems to have a fairly elastic definition of 'secret'.

1345 It is almost as if this diligence that he speaks of is as much diligence as coming home three days earlier from holiday on a return ticket can be described as a contingency plan, to return in the event of a crisis, as he described his heroic return to Gibraltar in August, to tell us all that he would remove the artificial reef.

1350 Well, Mr Speaker, let me deal with this question of what will happen if the taxpayer has to foot the bill, and their ability to understand systemic risk in that way. What will happen if the taxpayer actually garners a very healthy profit indeed from the administration of Credit Finance Company Ltd's affairs? Will he then get up in this House and welcome, probably weeks before a general election, the work done by the Government and by those responsible for Credit Finance Company Ltd, because it will have produced a profit for the taxpayer? Will he do that? Will he give an undertaking today, Mr Speaker, to congratulate Credit Finance Company Ltd, its directors and the Government as its shareholder, if huge profit is produced, as a result of the project that has been embarked upon, as I have no doubt that it will?

1355 Well, Mr Speaker, I wager that he will not, and in fact, having heard Members from a sedentary position say no, I am happy to – (*Interjection*) I am happy to make that bet, because it is clear, Mr Speaker, that all they are interested in, in respect of Credit Finance, is spreading some suggestion of risk and fear, where there is absolutely no reason to do that.

1360 Although he will not listen to me, Mr Speaker – I will give way, just before I sit down – although he will not listen to me, Mr Speaker, there are two more sets of questions on the Order Paper, there are two sets of questions I will take together – one I will take on its own, which I think is an irrelevance – which will give him more information, and perhaps, based on that information, he might be prepared to start considering giving that undertaking. (*Interjection*)

I give way to the hon. the backbencher.

1370 **Hon. P R Caruana:** Mr Speaker, I would like to answer the hon. Member's challenge of whether I, at least, would congratulate him, if Credit Finance Company make huge amounts of profit. The answer is that I would do two things. First of all, I would congratulate him for Credit Finance having made huge amounts of profit, and then I would condemn him for slaughtering parliamentary democracy in the process. (**Hon. D A Feetham:** Absolutely.) (*Banging on desks*) Because these are two wholly different things.

1375 The question is not whether Credit Finance makes profit or does not make profit. I hope it makes a huge amount of profit. But whether it makes profit or not is not what determines whether Parliament should have information.

1380 Parliament is entitled to have information about the public affairs of Gibraltar, in my increasingly unimportant opinion, whether it is profitable or not, and that gauntlet that he throws down, about 'wait to

see how much profit it makes' is a monument to the very concern that we have, which is not about the profitability of Credit Finance, but about the role of this Parliament, and the Opposition's right to do all that it can – which is not much, evidently – to ensure that Parliament is not ridden roughshod over, finessed, circumnavigated, by the way in which the Government answers these questions. (A Member: Hear, hear.) (*Banging on desks*)

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Would the hon. Member acknowledge this to me: under the Standing Orders the hon. Members are accountable in this House – of course, he can refuse to answer questions. The Speaker cannot make him answer questions. He can refuse to answer questions, and then suffer, if any, the political consequences of refusing to answer questions. That is a different matter. But he cannot stand up and say that he is not obliged, that we are not allowed to ask the questions, as if the questions were somehow inappropriate.

Well, Mr Speaker, any question addressed to the Chief Minister, or a Minister, shall relate to the public affairs with which he is officially connected, or to a matter of administration for which the Government is responsible. Is the hon. Member saying that there are civil servants, on a frolic of their own, doing things with huge amounts of public money and liability, with which no Minister is connected, and for which no Minister is responsible, and that the acts and decisions of civil servants are not the public affairs of Gibraltar? And then it is not a slip of the tongue... When he said 'we', it was a slip of the tongue –

**Hon. Chief Minister:** No, it wasn't.

**Hon. P R Caruana:** – but the answer was... Yes, but that was not the only occasion, you see. Just before the 'we' when he said, 'Alright, you have caught me out with the "we"', that could have been a slip of the tongue. His original answer, just before that one, supplementary, was 'the Government has decided to make these loans'. Well, look, if the Government has decided to make these loans, I am not asking about the borrower; I am asking the Government to account in this House for a decision that it has said (*Banging on desks*) in this House it has made, and the hon. Member appears to be of the view that that is not a public affair of Gibraltar with which a Minister is connected.

**Hon. Chief Minister:** Mr Speaker, no, that is not the case.

**Hon. P R Caruana:** Well, Mr Speaker, then... that's that, I am grateful to him for giving way!

**Hon. Chief Minister:** Look, Mr Speaker, it is not that I am saying that they cannot put the question, I do not know where he has got that from. Of course they can put the question. But questions which are properly put are sometime susceptible of answers where we do not give all the detail, because the Government makes a decision about commercial sensitivity. That is the debate, Mr Speaker, and I do not know why it is that it has taken the debate there, but in doing so, Mr Speaker, he has accused me, of potentially slaughtering parliamentary democracy.

Well, look, Mr Speaker, he gives me an opportunity to remind him that he presided over a Parliament that met on two occasions in years where there was a general election, three when there was not a general election, and before the change to the Constitution, *infamously*, on one occasion in one year. Right?

On those occasions when the Parliament *did* meet, let us look at the tenor of the answers. He will recall that not so shortly before the last general election, I had cause to ask him how it was that his Government had entered into contracts which were clearly contrary to European Procurement Rules. He told me, Mr Speaker, with a bold face, that he would not tell me how he had done that. He told me he would not tell me how they had done that. Well, Mr Speaker, we are not saying that, and if we get to the end of the Order Paper, he will see how much more information is about to come their way about Credit Finance Company Ltd.

So this is not a question of a slip of the tongue of any description, because with the information they are about to get, they will have a lot more information about Credit Finance Company Ltd and its affairs, which I would not be able to give them, if I was simply saying, 'This is two civil servants on a frolic of their own, and I do not know what is going on there.'

But, they will not take my advice, Mr Speaker, to go on until the end of the Order Paper. So be it. We will continue to have these battles until we get to the end of the Order Paper, and then they can think up some other ruse for pretending that they do not have information.

**Hon. P R Caruana:** Mr Speaker, can the hon. Member tell me, what is 'commercial in confidence' about a loan to a Gibraltar housing estate management association, so necessarily there are 13 or 14 people who must – ?

**Mr Speaker:** May I correct the Hon. Sir Peter Caruana, because I have the answer here: commercially *sensitive* information.

1445 **Hon. P R Caruana:** Well, can the hon. Member tell me – I am grateful – what is commercially sensitive about information that is available to the committees of the borrowing estates, who, presumably, have to report to their members who are liable to repay the loan and to pay the interest, so that there will be, sort of, *hundreds* of flat owners that will know about these loans – but it is too commercially sensitive for the Government to tell Parliament? Despite the fact that there will be hundreds of people out there, nattering about it in pubs and bars, on beaches and over dinner, but it is commercially sensitive information.

1450 How is it *capable* of being commercially sensitive information, if the negotiations have already been completed and the deal is done?

1455 Now, if he says to me that it is under negotiation, and it is commercially sensitive until the deal is done, because otherwise it upsets the negotiations, that I accept. But it cannot permanently be – how can this be commercially sensitive? I would really like to understand, by what criteria his definition of commercially sensitive allows him to use it in this factual circumstance.

**Hon. D A Feetham:** Mr Speaker.

1460 **Hon. P R Caruana:** I beg your pardon.

**Hon. Chief Minister:** Go on, okay. I do not know quite which one is the Leader of the Opposition, but –

1465 **Hon. D A Feetham:** Will you give way?

Mr Speaker, my question was related to that, and perhaps I can ask it, and the Hon. the Chief Minister, rather than my getting up afterwards...

1470 The question is this – (*Interjection by the Hon. Chief Minister*) The question is this... Well, thank you very much. The question is this – (*Interjection*) what is commercially sensitive about the amount of the loan? Without identifying the recipient of the loan – in other words, just the amounts of the loan – can he explain so the public understands his idea of commercially sensitive in that context?

1475 **Hon. Chief Minister:** Mr Speaker, look, I think the question is actually the identical question, from both of them, but I will deal with it as it was much more eloquently put by the Hon. Sir Peter Caruana, in the context of answering that question.

1480 Look, it is very simple. We consider – and I use the ‘we’ advisedly, not as a slip of the tongue – that Credit Finance Company Ltd behaves as a lender should behave. It is a licensed money lender. Lenders do not go around talking about who they have given loans to; but borrowers may. So in other words, I know they do not like the context of the banking analogy – I accept that banks are regulated in a different way to money lenders – but let us just understand, for the purposes of this particular question, that borrowers and lenders have different obligations under loan agreements. Lenders do not disclose the details of their lending to borrowers. Borrowers are sometimes quite free, although the document may actually also restrict a borrower’s right, borrowers are quite free to go around and tell people what they have borrowed.

1485 So, if I can just put it in this way, so the hon. Gentleman understands my thinking on this, so this is what he has said. He wants to understand, I have no doubt that he will denigrate it once I have sat down. I can go into a bank and borrow money, and so can he, and we could borrow it for different purposes. I may decide I do not want it disclosed, for whatever myriad reasons. He can walk out, and tell any of his friends he meets, ‘I have just walked into bank x, they have given me a loan to buy a new car, in the sum of £20,000 at 6% interest, aren’t I lucky?’ The bank manager, the same person – let us assume we both went to the same bank – when he walks down the street cannot give that information. It is all confidential, it is commercially sensitive information, it is confidential. Right. In fact, he would be in breach of his obligations if he did.

1495 What we are saying is that Credit Finance behaves like a lender. It is that simple, but when we get to the end of the Order Paper, they will have more information about what it is that Credit Finance is doing, and how it is doing it, which is not the individual loan information. That, I think, Mr Speaker, should give him the comfort of understanding, why it is that we are taking this attitude.

I have no doubt that having been that transparent about it, as soon as I sit down, I am going to be called every name under the sun.

1500 **Hon. P R Caruana:** Mr Speaker, it is not necessary to call him any name under the sun, because the arguments speak for themselves, and Mr Speaker has asked us, and I am determined to do as he asks, that we should have a mature discussion about what is a very important issue. And it is only because I think it is a very important issue – I could be wrong, but I think it is a very important issue that I am participating in this debate at all.

1505 Mr Speaker, what the hon. Member has just described, by way of analogy, may be true of Barclays Bank, or some other bank, and a customer. But can I invite him to take the view that it is not an appropriate or applicable analogy for a lending decision that has been taken by a Minister of the Government, and that those two situations are not comparable. In other words, although it may be legitimate – indeed I agree with his legal analysis – probably a requirement of banking confidentiality that the manager of the bank does not go to the golf club on Saturday and tell all his golfing partners about the people he has made loans to – that is hardly comparable to a government, *it* deciding that the Savings Bank, that the Finance Company will make loans to Varyl Begg Estate, or to Waterport Terraces, or whoever, just to use hypothetical examples, and then is not going to tell this House that *it* has made that decision – not that the manager of Barclays Bank – that *it*, the *Ministers* have made this decision, because it is commercial in confidence.

1510 He may want to argue that the ministerial decision is commercial in confidence as well, but not for the same reasons as the manager of the bank, because one is a public affair – namely, a decision of a Minister is a public affair, and he can argue, even though it is answerable under Standing Orders, that he is still not going to answer it, because he thinks it is commercial in confidence, but he cannot say, ‘I am not answering it because it is not a public affair, because I am not accountable for it, just as the manager of Barclays Bank is not accountable for it.’ That is a qualitative difference which goes to the very core... That distinction that I have just drawn for him goes to the very core of my personal concern, about the consequences of all of this situation, for the ability of this Parliament to do its work, now and in the future.

1525 And I am sorry, I am not the world’s most articulate person, but I am not the world’s most inarticulate person either. I cannot think of another, a different formula of words, to try and convey to him the nature of my concern, what I am concerned about, and what I am not concerned about, and if he wants to continue to obfuscate the differences, that I am trying to draw to his attention, let him do so. But, I cannot honestly think that my expressions of view, will prosper by simply choosing another formula of words. If he is determined to argue that it is appropriate for Ministers to make decisions, and then not be willing to inform parliament of what decisions they have made, involving public monies, then we have an irreconcilable difference about what the role of Parliament is, and what is objectionable and injurious to that role, and what is not, and we will just have to live with that difference.

1530 I beg your pardon, thank you.

1535 **Hon. Chief Minister:** Well, Mr Speaker look, this is not about who is more or less articulate or about obfuscation. Disagreement is not obfuscation. The fact that we have different views does not mean that one of us is necessarily obfuscating, because he does not give the detail that the other insists he must be able to persuade anybody else of the detail.

1540 I would have thought, Mr Speaker, that he would have understood the point I made about his relationship with another individual, a personal relationship with another individual, which led to a number of consultancy agreements being entered into, which I put to him, when he was sitting in my seat, were entered into contrary to European Procurement Rules, Mr Speaker.

1545 Now, look, at that time, he was much less generous in the way that he agreed or disagreed with my legal analysis. At least this time, he has said that he accepts my legal analysis, and the issue is, and I understand from him – (*Interjection by the Hon. P R Caruana*) and I understand from him, the issue is, in one instance you are dealing with a commercial bank manager; in another you are dealing with a Minister. ‘The Minister in Parliament is accountable, why are you not giving the answer?’

1550 I understand the analysis; let me take him to the next step. It is very simple. Credit Finance Company Ltd is designed, as I said on 5th July in the context of the interview that I gave to the *Gibraltar Chronicle*, to operate a little bit like a sovereign wealth fund. In other words, it is designed to make profit. Therefore, Mr Speaker, what is it that makes the bank manager not disclose the information? It is two things: the duty of loyalty to the customer and the right of the customer’s confidence; and second, that of course he wants to lend in order to make profit, and therefore he does not disclose to others what he may have lent, so that they continue to come to him for lending.

1555 In the context of this structure, the persons responsible for making decisions are not going to go around telling everyone what they have lent, and to whom. Now, those who borrow may do so, and he is right, in the context of some estates, Mr Speaker, the borrower may actually have, as an obligation under their constitution, to have disclosed to 400 tenants what their loans are in their accounts, because the tenants are all paying them as part of their service charges. But that does not mean that the lender can disclose it.

1560 So let me take the example one step further. I gave him the example of him and me walking into a bank. Say that he and I have actually reconciled all our differences – there are not that many at a personal level, I am sure – and we end up on the board of a management company of an estate. We walk in together – ‘perish the thought’, I hear him think! – we walk in together to a lending institution, and we sign up and borrow that amount that we need in order to refurbish our estate. We walk out, and we tell the

400 people who have flats in our estate. The bank manager *still* cannot tell, even though 400 other people have been told by us.

1570 In this context, what we are saying is we are going to operate in the same way. Now, when we get to the end of the Order Paper, you will see that there is a lot more information than a bank manager would give, but we are still just not getting there.

1575 Now, I would like to think, Mr Speaker, that for somebody who did not tell me how it was possible for him to have entered into agreements, which were clearly contrary to EU Procurement Rules, and which resulted in large amounts of money being paid, as fees under those agreements, also public money, also issues which he was accountable for here, which did not produce profit for our community, I think he has to cut me a little bit of slack, when what I am saying to him is, I am producing profit for the taxpayer with this sort of structure.

1580 **Hon. D A Feetham:** Well, Mr Speaker, he says he is producing profit but, of course, there is no way in which the Opposition can possibly assess either profit or risk or anything else to do with this particular structure. We certainly do not accept that this structure is analogous with a sovereign wealth fund. A sovereign wealth fund is where a country invests its own sovereign wealth, its excess sovereign wealth, for example from oil or minerals, into a fund, which invariably it then invests outside the country, because it does not invest it inside the country, because it does not want to create rampant inflation within  
1585 the country, unless –

**A Member:** Completely at arm's length.

1590 **Hon. D A Feetham:** And is completely at arm's length, absolutely, and unless the Government is treating savers' money as its own wealth, then it is just not apposite at all.

But, Mr Speaker, the Hon. the Chief Minister still has not answered my question, because he has not provided – I quite understand his reasoning, flawed as it is, for not providing – the identity of the borrowers. But what he has told me in answers to questions today is that the Government has cause for loans to be provided to housing estates for their refurbishment, etc. What I still do not understand, and what he has not explained, is why there is any commercial sensitivity in the actual size of the loans provided, so at the very least the Opposition can have that information and say, 'Well, we know that the Government has provided a loan to three estates and the loan is £80,000 to one, £3 million to the other and £4 million to the other.' Where is the commercial sensitivity in providing us with that information, at least?  
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**Hon. Chief Minister:** Mr Speaker, I am having difficulty working out who is the Leader of the Opposition, this afternoon. But anyway, dealing now with the points that Mr Feetham makes –

1605 **Hon. D A Feetham:** I have the same problem with the Chief Minister, I have to say. (*Laughter and banging on desks*)

**Hon. Chief Minister:** Do you? If he has a problem working out who the Chief Minister is, Mr Speaker, he should know that the Chief Minister of Gibraltar has an office, it is 6 Convent Place, it now has a fabulous entrance and he will find me there every day and actually, there is a very helpful sign prepared by the Parliament, which is put in front of the people who sit on this side of the House. (**Several Members:** Ooh!) But anyway –  
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**Mr Speaker:** May I say that when hon. Members start making clever remarks, they really lower the tone of Parliament.  
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**Hon. Chief Minister:** Thank you very much indeed, Mr Speaker.

I may now be allowed to continue. Now, Mr Speaker, I have explained, repeatedly, what the thinking is. Now, he always describes anything that he does not agree with as 'flawed'. Well just because he says it is flawed, and just because he repeats that it is flawed, does not mean that it is. But if it makes him feel happier, I am quite understanding of his need to repeat remarks like that.  
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Our rationale is simple and straightforward. We are behaving here as *lender*. The *lender* does not disclose who it lends to. The *borrower may*.

Now, Mr Speaker, in that context, he can find out from a number of borrowers what it is that they have borrowed from us. But actually, by the end of this afternoon – if we actually get on to this process – he is going to have a lot of information about what Credit Finance Company Ltd is doing, just not that specific information about the specific loans. That is all.  
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**Mr Speaker:** We are now beginning to cover the same ground again, and in the remaining questions, I am not going to allow, in the course of supplementaries, the same ground to be covered. I will allow new supplementaries, but not about the same subject.

1630 Next question.

1635 **Credit Finance Company Ltd**  
**FSC rights or obligations to Government**

**Clerk:** Question 756, the Hon. D A Feetham.

1640 **Hon. D A Feetham:** Mr Speaker, can the Chief Minister please state whether Credit Finance Company Ltd has taken over, or it is intended to take over, any right to receive payment or any other financial obligation of the Financial Services Commission to the Government, in respect of any monies made available to the Commission by the Government?

1645 **Clerk:** Answer, the Hon. the Chief Minister.

**Chief Minister (Hon. F R Picardo):** Mr Speaker, Credit Finance Company Ltd has not taken over, nor is it intended it should take over, any such rights.

1650 **Credit Finance Company Ltd**  
**Government arrears**

1655 **Clerk:** Question 757, the Hon. D A Feetham.

1660 **Hon. D A Feetham:** Mr Speaker, can the Chief Minister please provide details of all arrears that have been due from individuals or corporations to the Government, which have been repaid by those individuals, or by Credit Finance Company Ltd, from the proceeds of monies provided either directly, or indirectly by that company, broken down by reference to: (a) the identity of the individual or corporation; (b) the amount paid in respect of each individual or corporation; (c) the type of Government arrears; (d) the date on which each amount was paid; and (e) whether those individuals or corporations have been required to enter into a loan, or other type of contractual arrangement with Credit Finance Company Ltd, together with details of the repayment period, interest payable and security provided in each case?

1665 **Clerk:** Answer, the Hon. the Chief Minister.

**Chief Minister (Hon. F R Picardo):** Mr Speaker, I will answer this question together with Question 758.

1670 **Clerk:** Question 758, the Hon. D A Feetham.

1675 **Hon. D A Feetham:** Mr Speaker, can the Chief Minister please provide a list of all types of Government arrears in respect of which it is intended either now, or in the future, that Credit Finance Company Ltd should provide funding, in whatever form, to individuals or corporations, to allow for the repayment of those arrears to the Government?

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

1680 **Chief Minister (Hon. F R Picardo):** Mr Speaker, loan agreements by Credit Finance Company Ltd are commercially sensitive and details of names of individual entities cannot therefore be disclosed.

Funding is being provided by Credit Finance Company Ltd to assist debtors in meeting historic Government arrears of commercial rent, rates and electricity charges in those cases where the loan agreement can be backed by added security which is not available otherwise to Government, and a more structured recovery plan can be put in place.

1685 No such funding is being provided in respect of individual taxation liabilities or corporation tax liabilities.



**Hon. D A Feetham:** Yes, Mr Speaker.

1690 Can the Hon. the Chief Minister provide us with, for example, a total figure of Government arrears that have been funded through Credit Finance Company Ltd?

**Hon. Chief Minister:** Mr Speaker, I do not have the exact figure, but I think it is just under a million pounds.

1695 **Hon. D A Feetham:** Can the Government provide a figure, that million-pound figure, broken down in relation to the Government arrears, the type of Government arrears and whether it is an individual or a company, for example, without identifying the individual or company concerned?

1700 **Hon. Chief Minister:** Mr Speaker, I would not have any difficulty providing him with a schedule that shows that.

**Hon. D A Feetham:** Well, Mr Speaker, does he undertake to provide me with that information?

1705 Now of course, if he undertakes to provide me with that information, what is the difference – and I have been asking the question, I asked it a number of times *ad nauseam* – what is the difference between the provision of that information and providing me with, for example, the amount of the loans provided to each housing estate where the Government has caused loans to be provided to those housing estates, without identifying the housing estate?

1710 **Hon. Chief Minister:** Mr Speaker, it is very simple, because the information I am going to give him here, I am going to give him as Government, as receiver of this revenue. In other words, I am going to tell him, as the Government, I have received these amounts from Credit Finance and I will give it to him in the way that he wants.

1715 But in relation to the estates, Mr Speaker, we are not just dealing with arrears; we are dealing with a lot of other issues that estates are funding, not Government arrears. So the information I am going to give him, and which I have said I have no difficulty providing the schedule on, Mr Speaker... He has asked me to undertake that I will. Short of forgetting, but people are listening to this debate, so they will already have started to prepare it. I will ensure that it is provided to him as soon as possible in the next few days.

1720 It is a schedule of receipts by Government. I am not going to give him a breakdown of names, etc, as I have told him, but I am going to give it to him in the way that he has requested, because I think he can have that and I am going to give it to him, as the receiver of that revenue, not as the lender.

**Hon. D A Feetham:** So effectively, the distinction that the Hon. the Chief Minister is drawing is he is providing me the information because the Government *receives* from Credit Finance – ?

1725 **A Member:** Not from Credit Finance, from the lender.

1730 **Hon. D A Feetham:** Well, Credit Finance lends the money to the lender... (**A Member:** The debtor.) To the debtor. It can either pay directly to the Government, or pay it to the debtor and then the debtor pays the Government – effectively. So the distinction is that the Government is receiving that money, but the Government will not provide the information, where effectively the Government is causing Credit Finance, because ultimately it is the Government that makes the decision – just so that I understand it. The Government will not provide the information, where the Government is causing Credit Finance to lend to a third party or to invest in a third party.

1735 Where that is the position, the Government will not provide the information. It will only provide the information if the Government is receiving the money. Is that correct?

**Hon. Chief Minister:** No, Mr Speaker. Credit Finance lends to borrowers. What borrowers then do with the money is up to borrowers, subject to Credit Finance having approved it, because as any lender, it approves the purpose of a loan.

1740 This question which he has asked and which I am prepared to give him the information in the context that he has asked it for, is making the Government the receiver of revenue. That revenue always comes from an individual. It is never going to come from Credit Finance, even if the money originates with Credit Finance. But I am going to give him the breakdown of the amounts received, by Government, in respect of these amounts where we know that the money originates with Credit Finance. We are going to give him that as receivers of revenue. As receivers of revenue, not as lenders – that is the distinction. I have explained it once. I do not think he needs to have it explained twice, but for some reason, he wants to emphasise the distinction.

1745 It is really quite different, once the Government lends to somebody, what that borrower does with the money, as long as it is an approved purpose, may not be money destined to come back to Government. It

1750 will go to another purpose. He has given the example of the estates. He will know that some of the  
estates, and I have said so, are structuring loans which enable them to pay Government arrears, but they  
also do other things with the loans. We are not going to be giving him in this schedule, what it is that the  
estates are doing with the full amount borrowed from Credit Finance, for example. We are going to tell  
1755 him, in the schedule, 'x amount has been received in respect of this arrear of Government revenue', as  
receivers of revenue, and that amount will be less than a million pounds, which is what he asked me  
before.

1760 **Credit Finance Company Ltd**  
**Payments made to individuals and corporations**

**Clerk:** Question 759, the Hon. D A Feetham.

1765 **Hon. D A Feetham:** Mr Speaker, apart from Government arrears, can the Chief Minister please  
provide details of all payments made to individuals or corporations, by Credit Finance Company Ltd,  
from the proceeds of monies provided either directly or indirectly by that company, broken down by  
reference to (a) the identity of the individual or corporation; (b) the amount paid in respect of each  
1770 individual or corporation; (c) the reason for the payment; (d) the date on which each amount was paid and  
(e) whether those individuals or corporations have been required to enter into a loan, or other type of  
contractual arrangement, with Credit Finance Company Ltd, together with details of the repayment  
period, interest payable and security provided in each case?

1775 **Clerk:** Answer, the Hon. the Chief Minister.

**Chief Minister (Hon. F R Picardo):** Mr Speaker, I will answer this question together with Question  
760 to 762.

1780 **Clerk:** Question 760, the Hon. D A Feetham.

**Hon. D A Feetham:** Can the Chief Minister please state what is the total amount of money paid out  
by Credit Finance Company Ltd, since its incorporation?

1785 **Clerk:** Question 761, the Hon. D A Feetham.

**Hon. D A Feetham:** Can the Chief Minister please state whether any commuted pensions of civil  
servants are being paid by Credit Finance Company Ltd?

1790 **Clerk:** Question 762, the Hon. D J Bossino.

**Hon. D J Bossino:** Can the Chief Minister please state the amount of any loans made by the  
Government, Credit Finance Company Ltd or any other Government-owned company, as at 14th  
November 2013, to the owners of the Sunborn?

1795 **Clerk:** Answer, the Hon. the Chief Minister.

**Hon. Chief Minister:** Mr Speaker, as the House is aware, all Civil Service pensioners are now able, if  
they so wish, to commute 100% of their pensions. They are able to do this by assigning their pension  
payments to Credit Finance Company Ltd, the pension payments continue to be paid out of the  
1800 Consolidated Fund. As at the end of October 2013, total loans issued by Credit Finance Company Ltd  
amounted to £38.6 million. The Government will not give a breakdown by identity of individual  
borrower, as these details are confidential.

1805 **Hon. P R Caruana:** Mr Speaker, will the hon. Member say what are the payments that have been  
assigned to Credit Finance, if the Government occupational pension scheme is a non-contributory  
scheme?

1810 **Hon. Chief Minister:** The amounts of pension that would be paid to the civil servant that commutes.  
The civil servant assigns the pension payments due to him.

1815 **Hon. D A Feetham:** Yes but how... Yes but... you see... I mean effectively, what we are dealing with here is a civil servant from a... There is no defined pot of money, it is non-contributory. The Government pays non-contributory pensions of civil servants. How is this structured, as between the Government and Credit Finance? How is Credit Finance actually making its money? Is the Government effectively assigning...? Is Credit Finance making one lump payment at the start and then the Government then pays to Credit Finance instalments...? How is it all structured? How is Credit Finance actually making its money in relation to this?

1820 **Hon. Chief Minister:** Mr Speaker, I would have thought it was very straightforward. Credit Finance makes the lump sum payment which is the equivalent of the commutation, in exchange for the civil servant assigning his right to receive his pension payments. So you make the pension payments that you would make to the civil servant as you would in the normal situation, namely until the civil servant dies, but the civil servant gets the lump sum up front. That is how Credit Finance makes its money, it is not difficult.

1825 **Hon. D A Feetham:** No, because implicit in what you are saying is effectively that the commutation... the pension is being paid up front, and then what the civil servant was entitled to receive is then paid by the Government to Credit Finance Company Ltd. But unless there is a matching of payment, and therefore effectively the payment into Credit Finance, and the payment out from Credit Finance is neutral in terms of making money for Credit Finance... Credit Finance must be making money somehow, otherwise why is the Government actually structuring it in this particular way? Unless, of course, the Government is structuring it in this particular way, because it is effectively using Credit Finance – which is a point that we have made publicly – is effectively using Credit Finance as a source of cash flow for the Government, which of course makes it also objectionable, because Credit Finance is effectively using the monies of savers in order to pay a lump sum out to civil servants, and then the Government periodically in the future, makes good on that payment.

Can he explain how this is actually going to work?

1840 **Hon. Chief Minister:** Mr Speaker, he and I have different opinions that we have expressed repeatedly as to each other's capacity to understand, but I think I have explained it very clearly. Now, he may not work out what that means, but Credit Finance Company Ltd makes available a lump sum to the pensioner, who wishes to take up that opportunity of commutation, right? In exchange for that, the pensioner assigns the payments of his pension to Credit Finance.

1845 **Hon. J J Bossano:** To pay off the amount.

**Hon. Chief Minister:** It is really quite straight forward, Mr Speaker.

Now, the individual would be receiving that pension until he passes away, and it will be going to Credit Finance for the whole of that period. That is what commutation is about.

1850 If we were to do it in a different way, let me just take the hon. Gentleman to another example. If we were doing this absent Credit Finance, commutation is about an actuarial exercise, it is a calculation. There will be a calculation as to what the commutation is – that has already been published, I think it is  $x$  years, that amount is paid – and the Government, in that context, saves the amount. In this context, it is paid to Credit Finance, the pension is paid to Credit Finance.

1855 I have explained it; I do not think I need to explain it again.

1860 **Hon. D A Feetham:** Mr Speaker, no, he has not. No, if you are paying a Civil Service commutation of pension, you are effectively commuting that pension, you are paying out a lump sum to a civil servant from effectively what is a non-contributory pension – there is no fund. The Government is paying for that civil servant's pension.

1865 Here, what appears to be happening is that Credit Finance is paying out of the funds that the Gibraltar Savings Bank has invested in Credit Finance. Now, unless what you are telling me is that the Government effectively pays the same amount, the same amount that Credit Finance pays the civil servant into Credit Finance, it seems a very tortuous, circular way of structuring it. Unless of course what you are doing – and this is my question now – is that effectively Credit Finance is paying out, but the Government is only paying to Credit Finance, periodically, parts of that money that Credit Finance...

Because if that is not the case, what is the point of Credit Finance paying out to the civil servant, when the Government can make the payment directly out?

1870 **Hon. Chief Minister:** Mr Speaker, I have explained how it works, and I have explained how it works precisely.

1875 He is now saying that the Government is not paying and it pays only periodically. No, the Government is paying the pension, as it would the pensioner. But the *pensioner* assigns the right to receive the pension to Credit Finance. Credit Finance receives the pension every month and it pays the commutation lump sum up front to now not the pensioner, the 'commutee', so to speak. It is very straightforward.

**Hon. P R Caruana:** Mr Speaker, can I ask two questions together, so that he can answer?

1880 First of all, when the Government pays a civil servant a pension, until the changes that were recently introduced what he could commute, effectively, was a proportion of the pension, and the rest of the pension, I think about 75% or something like that, was paid out in monthly payments, which cease if the pensioner dies, except in respect of those very few pensioners that were covered by the Widows and Orphans Pension Scheme.

1885 So, as I understand it, if I am correctly understanding the arrangement that the hon. Member has described, Credit Finance is going to, using its monies, which are in part savers' money, commute, to pay the commutation, to pay the lump sum just to use simple language. And then, as I have understood what he has explained to me, the Government is going to pay to the Credit Finance, the monies that would have been payable to the pensioner on a monthly basis, had he not commuted.

1890 But those pensions would end when the pensioner dies, so presumably if Credit Finance with savers' money commutes my parliamentary pension, when I eventually give him his wish and give up my seat, and I commute my pension, if I die the next day, (*Interjection by Hon. Chief Minister*) Credit Finance Company would be receiving no payments from the Government, because there are no payments payable when the pensioner...

1895 Well, Mr Speaker, I am happy to debate with the Chief Minister and with you, but it is unequal arms if I debate with you, at least in this Chamber!

First of all that is one thing. Now, in terms of the mechanics, how under the existing pension scheme, under the Pensions Act, how would the Government continue to make payments to Credit Finance after the pensioner has died, when the Pensions Act says that no pension is payable after the pensioner has died? That is supplementary number one.

1900 Supplementary number two is this. Given that pensions are presently a charge on the Consolidated Fund, and therefore come out of revenue and are regarded as expenditure, and therefore affect the size of the Government's surplus or deficit on the budget, it is not what the hon. Member has described, simply a way of relieving the Government's budget of a liability, thereby flattering the size of the surplus, whilst assuming the liability using capital as opposed to revenue? It is just transferring to the capital account, what the law says is a charge on the revenue account of the Government, and to boot, using savers' capital to do it, not even Government capital.

1910 **Hon. Chief Minister:** Mr Speaker, there is no boot to speak of. (*Laughter*) It is actually very clear. There is no question – (*Interjection*) Very clear indeed but not as clear as he thinks it is; it is clear in the other direction, Mr Speaker. You see, it is very simple. There is no question of a payment continuing after death –

**Hon. P R Caruana:** Oh, I see so –

1915 **Hon. Chief Minister:** So it is very clear that as far as the Pensions Act is concerned, there is no need for any amendment, the pension is paid whilst the pensioner lives.

1920 He will recall that he used to say a commutation is a very good thing, because actuarially, there is very little chance – of course, there is a chance – that people will actually die before one is able to recover the amount that they have commuted. If you look at the issues that have afflicted this area of financial services, there are people living too long, not people not living long enough.

Secondly, Mr Speaker, this question of flattering the budget by removing a liability on a Consolidated Fund, does not arise, because the pensioner does an agreement with Credit Finance. The Government is out of it. Therefore the Government has the same liability that it always had. The Government will be paying the pension until the day the pensioner passes away.

1925 For the Government account, it is exactly the same situation. It is in Credit Finance that there is a payment out and an agreement with the pensioner. So as far as the Government accounts see, in the example that the hon. Gentleman gave – who was not a civil servant, neither am I, and we are talking about civil servants, but let us just use that example – he would continue to be the drawer of that pension and he assigns the right of receipt of it to Credit Finance.

1930 So the Government pays Sir Peter Caruana. He then makes the payment – but actually goes direct, of course – to Credit Finance Company Ltd. The right to receive the pension is personal to him. Upon his death, the pension stops being paid.

1935 **Hon. P R Caruana:** Mr Speaker, it is not true that the Government will... at least, unless he has not  
addressed this point in his explanation and in which case, please clarify. It is not true that the Government  
would continue to pay what it would pay before out of budget, because it is making the payments until  
death. Because as he knows, part of what commutation means, even under the old rules, let alone under  
1940 the new ones, is what people call the gratuity. What people call the gratuity, which is a lump sum, is in  
technical terms, partial commutation. That lump sum, which people call the gratuity, is itself a charge on  
revenue.

In addition to the monthly payments after the gratuity, the gratuity lump sum is regarded for  
Consolidated Fund charge purposes, as in exactly the same way as the monthly payment and indeed, that  
is the lion's share. So Mr Speaker... Well, it is not the lion's share, but it is a very significant amount that  
could run into a couple of... two million, depending on how many civil servants retire in any given year,  
1945 but a very significant sum that runs into the millions of pounds – just the lump sum.

That, if it is going to be paid by the Finance Company, is a direct relief by the Finance Company of –  
(*Interjection*) Well fine, but it is part of the pension, it is a lump sum commutation, it is a million or a  
million and a half that used to be a charge, and *by law* is a charge on the Consolidated Fund, which is now  
going to be paid by Credit Finance and not by the party that the law says, and will flatter – I know he does  
1950 not like the expression – but will flatter, accordingly, flatter the Government's budget surplus.

In other words, he is converting a payment which is presently a charge on the Government's revenue,  
and therefore reduces its surplus, to capital paid by the Savings Bank out of savers' money. It is Mr  
Speaker, if the explanation – that point aside, which I think is a very important one – but the explanation  
that he has given me appears to shed new light on exactly how we should properly regard Credit Finance.  
1955 It is not really a finance company, licensable under the – at least not *only* a finance company, would he  
agree? – financeable, licensable under the Pawnbrokers Act or the Moneylenders Act or whatever it is  
called. It is, in effect, a life insurance company.

What it is doing is going to the casino with the length of people's lives. In other words, this company  
is making a lump sum payment and depending on how long the person lives, Credit Finance will make  
1960 money or lose money. This is what life insurance companies do for a living. So this Credit Finance is not  
just a moneylender; it is by any definition, either an annuity company or a life insurance company, or a  
company in the business of risking profit and loss, depending on the longevity of pensioners.

Now, Mr Speaker, this is a whole new area. We are not going to spend another three hours discussing  
this, but this is in addition to and not consequential upon, everything that we have been discussing today  
1965 about money lending. This is now... Credit Finance is a Government-owned company, run by civil  
servants using public money, investing savers' money – well, I am not surprised he was confident that it  
might be very profitable. Life insurance companies can be very profitable. They can also lose huge sums  
of money. That is the risk that shareholders of life insurance companies take.

1970 But you are not a shareholder of a life insurance company; you are the guardian of the Gibraltar  
taxpayer's money, Mr Speaker, and that is the difference. Will he...

**Hon. Chief Minister:** And where is the question?

1975 **Hon. P R Caruana:** Well, Mr Speaker, the question is: will he agree with me, that... First of all, I  
would like him to clarify, if he would, the business about the... I think, interpreting his body language  
whilst he was in a sedentary position, he appears to be conceding the point, but I would just like it for the  
sake of the record on *Hansard* that to the extent, at least, of the commutation lump sum, there is a transfer  
out of the Consolidated Fund charge.

1980 And then, I would like him to acknowledge that Credit Finance is running the risk that it will, having  
paid out a lump sum, *not* recover sufficient payments from the Government, once the Government stops  
payment of the pension when the pensioner dies, and that that is the nature of the risk that the company is  
taking.

1985 **Hon. Chief Minister:** Well, Mr Speaker, there is only a slight measure of disagreement between us in  
respect of the first point. In other words, that the gratuity was a sliding scale, in other words, different  
people could agree to take different amounts and in any year, depending on the number of people who  
retired, you might have more or less amounts, depending on numbers and the sliding scale. And it is right  
– (*Interjection*) It is up to 25%, but it could be less, yes.

1990 It is right that, to the extent that there will not be lump sum payments of gratuity made by the  
Government in respect of those who commute, but not everybody has to commute, then there would be  
relief in that particular way, except that, of course, if there is no gratuity, as the hon. Gentleman knows,  
then the pension is higher and in respect of those who commute, there is no gratuity element, there is a  
full pension taken, because the commutation is the total amount that is taken.

1995 Therefore the amount payable as pension to the individuals, he will no doubt accept, is higher than it  
would have been if the person had taken – he is nodding his head, but it must be right – because you see

Mr Speaker, I will explain it to him – (*Interjection by Hon. P R Caruana*) The monthly instalments will be higher because the pension taken monthly is 100% of the amount accumulated.

2000 Now, in that context Mr Speaker, if what he wants to say is that the accounts will have or the Government will have that temporary relief, in other words there will be no lump sums payable on day one in respect of a pensioner taking a gratuity, but of course the monthly amounts payable in respect of that pensioner will be consequently higher.

2005 Then he has expressed the second part of his question in some very figurative and emotive terms about what it is that CFCL is doing, whether it is providing an annuity, is it a life insurance company, is it playing at the casino? Well look, Mr Speaker, of course it is right that anybody who pays a commutation in exchange for a pension receipt in respect of an individual is running the risk that the person might die before they recover that amount of the commutation. That is absolutely right, but he will know that, actuarially, all the calculations show that this is actually the safest possible way to administer taxpayers' money. Because each pensioner, each Civil Service pensioner, will cost the taxpayer a lot more if they continue to receive their pension until death, than if we simply gross it up and pay them a commutation.

2010 I seem to recall him at one stage saying, 'If I could work out how to do this, I too would be very interested in introducing the concept of commutation.' Well, it has taken him two and a half years (*Interjection by Hon. P R Caruana*) to look at this and now he understands exactly how it is that we are doing and how we are financing it.

2015 It is, in our view, Mr Speaker, the right way to be prudent about taxpayers' money, by providing this mechanism to make the commutation payments to the pensioner and, in the way of the pension payments to Credit Finance, have that amount repaid as I have already set out. I think Mr Speaker, that anybody who looks at the actuarial analysis which is relevant will realise how potentially safe an investment this is. He does not seem to be prepared to share that view, from his body language. But look, we are the Government, we have made the decision. I assume that what he is saying is that he does not support that these commutations should be offered in this way.

2025 **Hon. P R Caruana:** No, Mr Speaker, I am not in the business, except when I debate with him, of having a battle of views. I am a Member of the Opposition asking questions and I am just trying to establish information. The issue is not whether I agree with him or not; the issue is transparency of the way that the Government is doing things.

2030 Look, Mr Speaker, with respect to him, he is not financing this. The savers of the Gibraltar Savings Bank are financing this. (**Hon. D A Feetham:** Absolutely.) He is not financing, this is not a case of the Government saying, 'I will use Government capital to buy off the Government's pension liabilities to its pensioners in a way that is ultimately cheaper for the taxpayer.' If the Government was using its own money for that purpose, we could have a discussion about whether it is a sensible or not a sensible way actuarially of shortening liabilities in the future.

2035 But he is not using Government money; he is using Gibraltar Savings Bank monies, and leaving it to chance, which we all hope will not come to pass – and may not come to pass if Government's fiscal position remains buoyant and solvent and Gibraltar continues to prosper – but we cannot assume that, we cannot take that as a necessary given, as no country can. This is not something peculiar to Gibraltar. Countries get into difficulty. So I am not saying that there is risk; I am saying that there is no transparency.

2040 And look, Mr Speaker, whether it is right or wrong for a Government-owned company to go into the business of life insurance and take risk is of course a matter of policy. Government sets up construction companies, Government sets up all manner of companies. Well, if Government wants to set up an insurance company, well it is a policy decision.

2045 The point is that that is what it is. I am not saying whether it is good or bad. If Government wants to set up an insurance company and say to the taxpayer, 'I have effectively set up something akin to an insurance company, which is now running these risks about whether it will make profit or loss depending on how people live', well Government can set up whatever companies it wants to, to trade in whatever line of business it wants.

2050 I am not here to say whether I think it is a good idea or a bad idea, although I have my views about that, but simply that the Government should be transparent and explain to people, and certainly in this House, that that is what the Government is doing and not pretend that Credit Finance Corporation is a moneylender under the Moneylending Act, whose bank manager does not tell people about loans, any more than Barclays bank manager does.

2055 Can we not have a clear transparent statement by the Government pursuant to its policy of how it wants to use Credit Finance, to explain in this House how it is using Credit Finance and what it is doing, without the Opposition having to play 20 questions and hope to strike, to arrive at the information, if Mr Speaker gives us enough latitude for long enough, to ask enough supplementaries, to eventually tease out the information.

2060 That is what I am urging to the hon. Member to do. If it is a legitimate architecture of Government, as he appears to be defending that it is, I would ask him to consider whether he should just not make a statement about everything that the company is doing, so that we do not have to ask questions in a way that might alarm people by the way in which we ask the question.

2065 **Hon. Chief Minister:** Mr Speaker, I think that we now find ourselves in a situation where the more information that we give, the more information that we put in the public domain, the more quickly that we provide it, the less transparent we are told we are by the hon. Members –

**Hon. P R Caruana:** But you are not transparent.

2070 **Hon. Chief Minister:** Well, Mr Speaker, look, I have explained to the hon. Members opposite and to the hon. the backbencher, who has taken a leading role this afternoon, and helped us therefore to get through business much more quickly than we might otherwise, if I may say, that Credit Finance Company Ltd is doing this commutation business.

2075 I have explained how it is doing it. He seems to have expressed opinions about it. It is true they have asked a question about it and we have explained what they have done, and he says the Opposition should not have to play 20 questions. But look, most other times they say the Opposition is here to ask questions in order to elucidate matters. Well look, Mr Speaker, we are the most transparent Government in the history of Gibraltar. (*Laughter*) Clearly the most transparent Government in the history of Gibraltar – but that does not mean, Mr Speaker...

2080 **Hon. P R Caruana:** A Government that most describes itself as transparent. (*Laughter*)

2085 **Hon. Chief Minister:** We are clearly Mr Speaker, the most transparent Government in the history of Gibraltar. We provide more information without being prompted, than the hon. Member used to provide even *after* being prompted. There was information put monthly on our website that we had to pull out of his mouth with hammer and sickle, Mr Speaker, as if we were pulling his teeth!

The fact is that we have explained today, in answer to a question, immediately that it has been asked, exactly how Credit Finance is doing this.

2090 Now, if he says that what we should have done is issue a statement about what it is that Credit Finance does, well look, Mr Speaker, I will take that as the sort of advice that he is tendering me for free. But he knows that I do not take his political advice and he has never taken mine.

We have made very clear what it is that Credit Finance is doing in respect of these commutations; we have explained exactly how it works in this House, which is the right way to do so. They tell us that they are here to ask us questions about what it is that we do. They have asked this question, they have got the information.

2095 Credit Finance is not just a licensed moneylender; it is also doing this business. He would therefore, Mr Speaker, describe – or some aspects of what Credit Finance is doing – as akin to an insurance company. Well look, Mr Speaker, it is fine. If he wants to describe it in that way, it is up to him to do so. What we are doing is ensuring that civil servants who want to have their commutations, can have them, we are satisfied actuarially that this is a very safe way in which to ensure that taxpayers' money, as the *payer of the pension*, is better put to the use of the community.

2100 **Hon. P R Caruana:** Does he acknowledge – ?

**Mr Speaker:** Any other new relevant supplementary?

2105 **Hon. P R Caruana:** Yes, Mr Speaker... [*Inaudible*]

2110 But, because I just want to extract it from the previous answer that he gave, is he agreeing with me – did he agree with me before – that in the case of a civil servant who retires and the company pays out the commutation, whatever degree of commutation the pensioner chooses to go for, and the pensioner dies soon thereafter, the Finance Company will never recover, will lose the difference between the lump sum that it paid out, and the aggregate of the pension monthly payments that it received between pension retirement date and death?

2115 **Hon. Chief Minister:** Mr Speaker, the hon. Gentleman is trying to get me to answer a question in a particular way. Let me answer it in *this* way.

In the way that I have explained that this works, if a pensioner takes his commutation, he assigns for life, his pension rights, the right to receive his pension from the taxpayer, to Credit Finance. If he dies before Credit Finance has recovered the amount it paid him, then Credit Finance will be at a loss in

respect of that pensioner, in respect of whatever amount is due – unless, of course, the pensioner has some other provision made. But there the position is quite clear.

2120 The analysis is that Credit Finance Company Ltd will make a lot more money than is likely ever to be lost in respect of those who might die before their commutations are fully repaid, from those who continue to survive as the actuarial analysis suggests that they will.

2125 It is very straightforward. The hon. Gentleman knows that, thank God, people in Gibraltar have a very long predicted life and that the cost to the taxpayer of paying them their pensions under the final salary scheme far exceeds the amounts that are calculated as commutations.

**Hon. P R Caruana:** So implicit in that answer is that the Government will carry on, will pay to the Finance Company, the full amount of the monthly pensions, on the assumption that there had been no commutation. So in other words, the Government pays the full pension to CFC on an uncommuted basis – that is to say the full monthly payment as if there had been no commutation. The Finance Company pays the commutation, uses part of what it gets from the Government to pay the remaining monthly payment if there has not been an 100% commutation, and keep... and accumulates –

2130 **Hon. Chief Minister:** Sorry, can you give way for a second? (**Hon. P R Caruana:** Yes.) (*Interjections*) Credit Finance is only relevant in cases of 100% commutation.

**Hon. P R Caruana:** Oh I see, so then the Government pays the whole pension at the full rate, let's just call it, on the uncommuted full rate, the Finance Company pays out the pension lump sum on the basis of 100% commutation, and collects the 100% pension payments from the Government, and then we wait and see how long the pensioner lives, to see how much revenue Finance collects.

2140 **Hon. Chief Minister:** Yes, Mr Speaker, that is the position and a very good business it is too. The actuarial analysis suggests that this will be an area of huge profit and in the same way, Mr Speaker, as on the other side of the balance sheet, it is potentially an area of huge liability to the taxpayer. To such an extent, Mr Speaker, that he, before he left office, ended the final salary scheme for exactly that reason.

**Hon. P R Caruana:** Correct. The only point to be made and the final point to be made is this: that of course this excellent business, as he calls it, of allowing people to commute their pension, this could be done by the Government. It does not have to be done by CFC, so what the hon. Member is doing is simply transferring potential profit and potential losses from the transparent Consolidated Fund and Government reserves, to what he calls the sovereign wealth fund, the Finance Company, where he will not tell us who he lends it to and on what terms.

2150 So this is just another way of shifting financial transactions from the Government's accounts, to the Credit Finance's accounts. Because you do not need Credit Finance to do all the excellent business, if he thinks it is excellent business, that he has just described. He can do that through the Government Pension Act and through the Financial and Development Secretary's office.

**Hon. Chief Minister:** Well, Mr Speaker, perhaps we could but we have decided to do it through Credit Finance. Now, I assume Mr Speaker, that in the context of what he is saying, where he talks about huge potential profit (*Interjection by Hon. P R Caruana*) and also potential loss, he is only talking about potential loss because at the moment he is on that side, and on that side, one sometimes is given to have to try and find an issue to niggle, and perhaps something to suggest that there is some element of risk. Because as he will know, the actuarial analysis – which is not something that we can do on the back of an envelope – suggests that people will live for very much longer than is necessary to repay their commutations.

2160 And that there is, in terms of real risk here, almost no real risk of anything other than profit being accrued as a result of this mechanism. And when he has mentioned loss, he has simply mentioned it because in some way, the Members opposite have to save the position that Credit Finance is going to be anything other than a hugely profitable endeavour for this community.

2170 **Hon. P R Caruana:** That is okay, so long as the Savings Bank debenture holders know that their money is being invested in this wonderful venture that he says is going to be very profitable, but may not be. That is all – transparency and explanation – and whether he does it or not is a matter entirely of policy.

2175 **Hon. Chief Minister:** Exactly, Mr Speaker and immediately that they have asked, we have given the information, transparent as we are. He will also... it does not take, Mr Speaker, a rocket scientist to know, that the savers actually are many of the commutees themselves who will be putting the money in the best deal there is in town, which is the Savings Bank.



2180 **Hon. D A Feetham:** Mr Speaker, can I ask the Hon. the Chief Minister two questions?  
One is: has Credit Finance Company Ltd been doing this paying out commuted pensions from, effectively, very soon after it was incorporated in March of this year?

2185 And secondly, who has made the assessment that this is likely to be profitable business for the Government? Is it Government Ministers that have made that assessment?

**Hon. Chief Minister:** Mr Speaker, I understand that this is something that Credit Finance Company Ltd started doing. It was one of the purposes for which it was incorporated in fact, and he will know – I know that he has referred us to it before – that it is something I think which is in our manifesto, which was considered at least during, and announced during the election campaign, so was an assessment that was made even before we were Ministers.

2190 **Hon. D A Feetham:** So effectively, it is the hon. Gentlemen opposite, without the benefit of any kind of professional advice, that have made the assessment that this kind of business is likely to be profitable business for Credit Finance?

2195 **Hon. Chief Minister:** Mr Speaker, I do not think it is something which requires detailed professional advice, but I would refer the hon. Gentleman to the fact that even his erstwhile former leader was very clear about what the liabilities to the taxpayer under the provisions of the Pension Act were, in respect of the final salary scheme to civil servants.

2200 In other words, the actuarial analysis is very clear, not to Credit Finance, but on the other side, where the Government constantly receives actuarial advice, as to the longevity of the people to whom we are responsible under the Civil Service Pension Scheme. So it is clear, on the one hand, and therefore very easy to interpret on the other.

2205 **Hon. D A Feetham:** Yes, well, Mr Speaker, you see this is a company that is run by three civil servants, they are not experts in this particular area, neither are the Government, as far as I can see, experts in the provision of making actuarial assessments. But I just find it extraordinary that the Government has effectively made the decision to use this particular company, in this particular way.

2210 Yes, as the Hon. Sir Peter Caruana says, it can lead to massive profits, but it can also lead to massive losses, and I just want the hon. Gentleman to be clear about this and to confirm that, effectively, this is just simply a decision of the Government, without any professional assistance at all, without any professional assessment or report as to whether this is good business or bad business for the Government of Gibraltar?

2215 **Hon. Chief Minister:** Mr Speaker, those three civil servants that he talks about include the Financial Secretary. The Financial Secretary is the person who is receiving, constantly, advice as to the liability of the Government to civil servants, to retired civil servants, under the Civil Service Pension Scheme. What I am saying to him – and we, the Ministers on this side of the House who are relevant to this decision-making process, have discussed these issues with the Financial Secretary – he is seeing the liability element. You need to understand...

2220 The hon. Gentleman asked me a question and it is an important one. I would like him if possible, to give me the courtesy of his attention for my reply. Right.

2225 We are seeing, and the Financial Secretary is seeing, the liability aspect to the pensioners, the Civil Service pensioners, under the Civil Service Pension Scheme. We are constantly, he will know, receiving actuarial advice in that respect. This is the mirror image of that advice. In other words, we are constantly being told 'x civil servants, all likely to live in this way, this analysis in respect of males, this analysis in respect of females, this is how long they are likely to be living for, this is your liability in respect of them.'

2230 What Credit Finance is doing, for those who choose it, is taking the inverse of that model in an analysis done with the Financial Secretary, who is not – I would ask the hon. Gentleman to accept – just a civil servant that happens to sit on the board. He has responsibilities and he has obligations in respect of the Civil Service Pension Scheme and, of course, the experience, understanding and knowledge of these things.

2235 **Hon. D A Feetham:** Yes, Mr Speaker.

Mr Speaker, the Hon. the Chief Minister has also said that this company was incorporated for this particular purpose. Now, how can the Hon. the Chief Minister justify the statements about this being the most democratic or most transparent Government in the political history of Gibraltar –

2240 **Mr Speaker:** No, no, no, that has got nothing to do with it. No, no, no.

**Hon. D A Feetham:** Well, I have not finished.

2245 **Mr Speaker:** No, no, no, but leave anything about transparent and democratic Government, justifying... Get to the point, please. Get to the point. We have a specific matter that we are dealing with. Get to the point, ask your question, otherwise I will rule you out.

**Hon. D A Feetham:** Mr Speaker, I am getting to the point.

2250 **Mr Speaker:** Right, but –

**Hon. D A Feetham:** May I continue?

2255 **Mr Speaker:** Yes, and to the point.

2260 **Hon. D A Feetham:** Yes. How can he justify the statements that he has made – I have not made them, that he has made – about transparency and accountability? How can he justify the statements that he has made about accountability and transparency? And this *is* about – at the core of what we are talking about, and the questions that we have been asking – it is all about transparency and accountability to this Parliament. How can he justify that, when here you have a company that has been incorporated in March of this year for the specific purpose of doing this, precisely this, paying commuted pensions to civil servants?

2265 And, the first time that the Government provides any kind of information, any announcement, it is not even an announcement, is when the Opposition come to this Parliament, seven months later and teases out the information from the Government, and the Government has not provided any kind of statement. How does he justify his description of his Government, as the most accountable and transparent in the political history of Gibraltar, with that?

2270 **Hon. Chief Minister:** Well, Mr Speaker, a company is incorporated to do a number of things, something that the Government does quite often. Hon. Members opposite, when they were in Government, did a number of things, short of incorporating companies for particular purposes, and did not always issue press statements saying that they were doing it.

2275 Now, is it that the hon. Gentleman is saying you can only be transparent and accountable, if every time you do something, you issue a press statement saying that you do it? But then, one of the things that they accuse us of is issuing too many press statements, or is it that he has forgotten that that is one of the accusations that they also throw at us?

2280 Well, look, why do I say that we are the most accountable and transparent Government, despite not having issued a press statement about CFCL financing commutations? Well look, as soon as we have been asked, we have said exactly what it is that CFCL is doing about commutations. They have not had to tease out the information. We have had a debate about the information, but the information was given immediately that it was asked for.

Now, ‘teasing out’ would be almost like a ‘foreplay-ish’ persuasion, if I could put it that way –

2285 **Hon. D A Feetham:** A what?

**Hon. P R Caruana:** ‘A foreplay-ish persuasion.’

2290 **Hon. Chief Minister:** Yes, that is what teasing out suggests to me, right? But that is quite different, Mr Speaker, to having to extract information with hammer and sickle, as if you were pulling teeth, which is what we ended up having to do with the hon. Gentlemen when they were here, and *even then*, did not get the information, because Mr Speaker is absolutely right – I think it was Mr Speaker that made the point some meetings ago – Mr Speaker cannot force the Government to answer a question, and in fact the Hon. Sir Peter Caruana made the point today.

2295 Government could simply say, ‘We are not answering these questions’ and then of course, you pay the political price if there is one to be paid. I would just remind the hon. Gentlemen that they paid it. That is the attitude that they took to my questions about a particular individual and the consultancy agreements that had been entered into with him, which I said in Questions, were being entered into in breach of European Union Rules. I was told, I am not being told why the Government takes a contrary view. Now, that was an issue that resulted in a net liability to taxpayers, in the millions of pounds.

2300 Everything we are debating here, *everything we are debating here*, is going to result in a net profit to taxpayers, I hope in many millions of pounds, and I trust that they also wish the same thing for the taxpayer. So why do I say that we are so transparent? Well, I say we are so transparent, because we put on our website information that they would not even have teased out of them in Parliament. We do that on a

2305 monthly basis. We come here 10 times in any year to answer all the questions that are put, and on *some* occasions, not all, we say that we cannot answer the question because we think it is commercially sensitive. Now, because we do that does not mean that we are anything other than entirely the most transparent, most open and most accountable Government, that this community has ever had the benefit of having. (*Banging on desks*)

2310 **Several Members:** Hear, hear.

**Hon. D A Feetham:** Well, Mr Speaker, I have to say that I admire the Hon. the Chief Minister's optimism. If this company makes a massive loss – God forbid, that is not what the Opposition wants (*Interjections*) – but if this company makes a massive loss, he is going to have to emigrate, I have to say.

2315 But, Mr Speaker, does he not accept that if the Opposition had not conducted a company search of the Sunborn Gibraltar Ltd, which then led us to Credit Finance Company Ltd...? Because the only reason why we discovered Credit Finance Company Ltd was because we conducted a search on the Sunborn, and we then discovered that there was a mortgage in favour of Credit Finance Company Ltd. Does he not accept that had we not done that, the community at large would have been none the wiser about the fact that the Government has invested £344 million of savers' and taxpayers' money into this company, which it is then using in order to provide loans to third parties? And does he not agree that that is the very opposite of being transparent and being accountable?

2320 Does he not accept, as well, that that is not a right and proper way for a Government to behave, because the obligation was on the Government to come to Parliament and provide a clear statement about Credit Finance, as soon as Credit Finance was incorporated – bearing in mind the amounts of money that we are talking about and, indeed, the purpose and potential liability to this community?

2325 **Mr Speaker:** That is the last supplementary that I am allowing and then we are going to conclude Question Time.

2330 **Hon. Chief Minister:** Well, Mr Speaker, I must say during the course of this afternoon, I have found it hugely just – and I am going to make a point in his favour, so he should not be so cynical as to look at me with that smirk – *hugely just*, that he has now been able to finally right the wrong of actually being able to turn to the now backbencher and tell him to sit down and shut up, just like the hon. Member used to do with him, when he was on the Government benches. There is justice!

2335 Anyway, Mr Speaker, the company search of Sunborn and then of Credit Finance, and the search of Credit Finance: Mr Speaker, this does not render the hon. Gentleman Poirot or Colombo – certainly not Sherlock Holmes. It is more like a diddling Clouseau! At the end of the day, these are public documents. He knows and I know that the Companies Register is known as the *public register* of companies and that searching companies is something that costs £5 and he and I, in a much more sophisticated guise, tend to do that for a living and sell that service.

2340 So when things are done by the Government, Mr Speaker, which are *public* because they are put on a public register, is it that he wants me to pick him up, hold him by the hand and take him to the document, before he accepts that I am being transparent about it? Mr Speaker, I would have great pleasure in holding any Member on this side by the hand, and demonstrating the openness to any member of the community, but, you know, he has to earn his keep, and as Leader of the Opposition, if he has to make a company search to discern a particular detail, well I do not think that is asking too much.

2345 And when you compare that, Mr Speaker, to the regime that there was before – to deal with his point in his last supplementary, about transparency and accountability – a regime that treated us to only one meeting of the House in one particular year between 1996 and 2011, that gave us a maximum of two, when two was all they were required to have under the Constitution, and had a maximum of three, when they had to have three and never went beyond that, and this is the place where Governments are accountable, then I have to say to him that he is tainted by the fact that he is a member of the '*Ancien Régime*' that prevailed over that time and he will always have that difficulty in saying that we are anything other than *the* most open, transparent and accountable Government that this community has ever had the benefit of having. (*Banging on desks*)

2350 **Hon. P R Caruana:** Mr Speaker, if he will allow me just one final intervention for today, would the hon. Member –

2360 **Mr Speaker:** It is a final one. I will allow you, it is a final one. I bow to your seniority in this House.

**Hon. P R Caruana:** In this House, I am very junior. (*Laughter*)

2365 Would the Hon. the Chief Minister agree with me that genuine parliamentary transparency is not about the number of times that Parliament meets – after all there is not much point coming, if you are not going to get any meaningful information – but about the quality of the information that you get?

2370 He appears to think that parliamentary transparency is measured in the number of meetings that you have a year, regardless of what happens in those meetings, whereas actual transparency is about the extent to which the Government gives the Opposition all the financial information that it needs. I can tell him however few... however badly he thinks we used to do in terms of quantitative transparency, in terms of the number of meetings of Parliament, even when they were in companies, no Government that I headed ever refused to give the Opposition financial information.

2375 The question, would he agree with me, that he has referred today on several occasions – and I no longer bother to get up to deny things that he says about me which are not true – but when he has said, Mr Speaker, when he has said repeatedly that I refused to tell him why contracts that were being given to particular consultants were not in breach of the Procurement Ordinance... Act, I told him that the Government did not agree that it was in breach; and as the Government did not agree that it was in breach, it is hardly possible to give an explanation about why you do not think that something is something that you do not think it is?

2380 So it is not... This constant impression that he gives, because he asserts it, that it was a breach of the Act – it is not a breach of the Act; and that it has cost the Government millions of pounds – it did not cost the Government *any* millions of pounds. The Government got the services at reduced rates by the way that it was paying for, Mr Speaker, but even that about which I disagree with him, is not what we are debating today.

2385 Will he acknowledge that when he was sitting on this side of the House, and we were sitting on that side of the House, we used to answer questions about the business of Government-owned companies, fully and systematically, as he has declined to do today, because Government Ministers were involved in conducting their affairs; and that is not happening today? Would he agree with me that that is the difference between our two positions?

2390 **Hon. Chief Minister:** Certainly not, Mr Speaker, and I will tell him why: because I am going to take his remarks as a valedictory this afternoon. Or is it that he has forgotten, when he was presenting to this Parliament answers to questions, when we had rumbled, much more in a ‘Sherlock Holmesian’ manner, that he had taken £20 million and hocked some Government buildings, in order to finance a project at the Mid-Town?

**Hon. J J Bossano:** By buying shares.

2400 **Hon. Chief Minister:** In that case, by apparently being prepared to make an equity investment – that thing which they now so criticise in respect of Credit Finance – in a venture which was to be a project to develop that area, involving the same person with whom he had done these agreements that were apparently in keeping with EU law? Does he not remember that he told this House that he could not remember what those £20 million were for? Does he not remember the number of times when he said he would not answer questions?

2405 **Hon. P R Caruana:** I said none of those things.

2410 **Hon. Chief Minister:** Well, Mr Speaker, we often have situations in this House where the hon. Member says, ‘I did not say that, it is not true’. Well, although we do not have the automatic system that a CNN transcription would provide for us, (*Interjections*) we have *Hansard*, Mr Speaker, and we can check together if he likes, so that we can demonstrate to him that that is the position.

2415 But is he saying, Mr Speaker, that they have not had information today? They have had a *huge* amount of information today, when they have asked for it. (**Hon. P R Caruana:** No.) And the hon. Gentleman said (*Interjections*) during the course of his interventions earlier this afternoon, in which he has so ably – if I may allow myself to say so – led, in effect, the Opposition once again, that when you do not give information, what happens is that you pay the political price.

2420 Well, Mr Speaker, let us just look at it this way. Let us just look at this way. They did not give information before the last general election on issues as important as the taking of that £20 million loan; they did not give information about those contracts which were granted in breach of EU law which cost millions of pounds, Mr Speaker. They did not give information, for example, about the power station that they were going to enter into. It was only *after* the election – not after a question from the Opposition, only after the election – that the general public found out that the hon. Member’s plan for a new power station involved a 5% increase in the cost of electricity for 20 years, Mr Speaker, *and* it was not until *after* the general election that the community found out that the hon. Member was planning to come back to

2425 this House to seek an extension of the debt, of the public debt of Gibraltar, because he was going to fund a lot of his projects under the GSD manifesto out of more debt.

So, Mr Speaker, in terms of quality of information, we have given much more quality of information, on a much more quantitative basis, namely 10 times a year, than they ever did.

2430 But he said, Mr Speaker, at the end of the day, Government can say that they will not answer questions, and they will pay the political price. Mr Speaker, as the Chief Minister elected by the people of Gibraltar today at the last general election, I am looking now at the man who paid the political price for not delivering information to this community and this Parliament. I think that stands as a testament to the way that he will be remembered – although, Mr Speaker, I do hope that now that we are at opposite sides and he is a backbencher, we will always be able to have a much more positive personal relationship than  
2435 the ones we used to have when he used to sit here.

**Mr Speaker:** May I now ask the Chief Minister to table the answers to the Written Questions and we will then have a 10-minute comfort recess.

2440

## Questions for Written Answer

2445 **Chief Minister (Hon. F R Picardo):** Yes, Mr Speaker, I have the honour to table the answers to Written Questions numbered W120/2013 to 159/2013 inclusive. I include also, Mr Speaker, the questions that Mr Netto asked this morning should be treated as Written Questions, which are also answered in these documents which I now lay.

2450 **Mr Speaker:** The House will now recess for 10 minutes.

*The House recessed at 6.22 p.m. and resumed its sitting at 6.42 p.m.*

2455

### GOVERNMENT MOTION

#### **Social Security (Open Long-Term Benefits Scheme) Act 1997 Social Security (Open Long-Term Benefits Scheme) (Amendment of Benefits) Order 2013 approved**

2460

**Mr Speaker:** Now that the Chair is suitably replenished, we can carry on with the business.

2465 **Clerk:** Government Motion. The Hon. the Minister for Enterprise, Training, Employment and Health & Safety.

**Minister for Enterprise, Training, Employment and Health & Safety (Hon. J J Bossano):** Mr Speaker, I have the honour to move the motion standing in my name which reads as follows:

2470 *'This House approves by resolution pursuant to section 46 of the Social Security (Open Long-Term Benefits Scheme) Act 1997, the making of the Social Security (Open Long-Term Benefits Scheme) (Amendment of Benefits) Order 2013.'*

2475 The draft Order which is available reflects the increase in benefits and, Mr Speaker, follows the procedure that happens every year.

**Mr Speaker:** I now propose the question in the terms of the motion moved by the Hon. the Minister for Enterprise, Training, Employment, Health & Safety.

2480 **Hon. D J Bossino:** Mr Speaker, I understand that procedurally this has to be passed by way of motion pursuant to the section set out in the body of the motion itself – it is section 46 of the Social Security (Open Long-Term Benefits Scheme) Act 1997 – and the Opposition really has nothing to add to this particular debate on the motion.

2485 **Mr Speaker:** If no other Member wishes to speak, I will put the question in the terms of the motion proposed by the Hon. the Minister for Enterprise, Training, Employment and Health & Safety. Those in favour? (**Members:** Aye.) Those against? Carried.

2490

## BILLS

### FIRST AND SECOND READING

2495

#### Crimes (Amendment) Bill 2013 First Reading approved

**Clerk:** Bills, First and Second Readings.

2500

A Bill for an Act to amend the Crimes Act 2011. The Hon. the Minister for Education, Telecommunications and Justice.

**Minister for Education, Telecommunications and Justice (Hon. G H Licudi):** Mr Speaker, I have the honour to move that a Bill for an Act to amend the Crimes Act be read a first time.

2505

**Mr Speaker:** I now put the question, which is that a Bill for an Act to amend the Crimes Act 2011 be read a first time. Those in favour? (**Members:** Aye.) Those against? Carried.

**Clerk:** The Crimes (Amendment) Act 2013.

2510

#### Crimes (Amendment) Bill 2013 Second Reading approved

2515

**Minister for Education, Telecommunications and Justice (Hon. G H Licudi):** Mr Speaker, I beg to move that a Bill for an Act to amend the Crimes Act 2011 be read a second time.

This Bill makes a minor amendment to Part 6 of the Crimes Act 2011, by providing for a new section 94A, which involves the offence of stalking involving fear of violence or serious alarm or distress and it replaces section 2(13) of the Criminal Justice (Amendment) Act 2013 which has not been commenced.

2520

In fact, Mr Speaker, what happened was that the Criminal Justice (Amendment) Bill was taken in the September sitting, and during the course of discussions with the Hon. Mr Figueras, he pointed out that there appeared to be a typographical or grammatical error in this particular provision. That was corrected by me at Committee, but on my return to the office, it appeared that it was not, after all, a typographical or grammatical error; it was a formatting error and during the formatting phase, a few words had actually been missed out. Therefore, what we did was commence all other provisions of the Criminal Justice (Amendment) Act except this one, which was not commenced.

2525

The Bill which we then published corrects that and introduces the provision which we intended to produce to commence in September in the corrected form.

2530

There is an amendment which I will be putting forward at Committee. I understand that a letter has been written to you and circulated to Members opposite. That amendment is to formally repeal the section which has not been commenced, section 2(13) of the Criminal Justice (Amendment) Act 2013.

In fact, technically it is not necessary, because it simply has not been commenced and it is an amendment Act, rather than a section in the main Act. It was a proposal that Mr Figueras made to me, that we should simply remove that erroneous section from the statute book altogether, and it is a suggestion that I am happy to accede to, even though technically it is not necessary.

2535

I commend the Bill to the House.

**Mr Speaker:** Before I put the question, does any hon. Member wish to speak on the general principles and merits of the Bill?

2540

**Hon. S M Figueras:** Mr Speaker, only to say that this side of the House has no issue with the Bill and to associate myself with the remarks that the Hon. Minister has made in presenting the Bill. I am grateful for his recognition of the collaboration in this respect and have nothing further to add to that.

2545 **Mr Speaker:** I now put the question, which is that a Bill for an Act to amend the Crimes Act 2011 be read a second time. Those in favour? (**Members:** Aye.) Those against? Carried.

**Clerk:** The Crimes (Amendment) Act 2013.

2550

**Crimes (Amendment) Bill 2013  
Committee Stage and Third Reading to be taken at this sitting**

2555 **Minister for Education, Telecommunications and Justice (Hon. G H Licudi):** Mr Speaker, I beg to give notice that the Committee Stage and Third Reading of the Bill be taken today, if all hon. Members agree.

2560 **Mr Speaker:** Do all hon. Members agree that the Committee Stage and Third Reading of the Bill be taken today? (**Members:** Aye.)

**Miscellaneous Amendments (Social Security, etc.) Bill 2013  
First Reading approved**

2565

**Clerk:** A Bill for an Act to amend various Acts on Social Security and related subsidiary legislation, the Medical (Group Practice Scheme) Act, the Limitation Act; and for connected purposes.  
The Hon. the Minister for Enterprise, Training, Employment and Health & Safety.

2570 **Minister for Enterprise, Training, Employment and Health & Safety (Hon. J J Bossano):** Mr Speaker, I have the honour to move that a Bill for an Act to amend various Acts on Social Security and related subsidiary legislation, the Medical (Group Practice Scheme) Act, the Limitation Act; and for connected purposes, be read a first time.

2575 **Mr Speaker:** I now put the question, which is that a Bill for an Act to amend various Acts on Social Security and related subsidiary legislation, the Medical (Group Practice Scheme) Act, the Limitation Act; and for connected purposes, be read a first time.  
Those in favour? (**Members:** Aye.) Those against? Carried.

2580 **Clerk:** The Miscellaneous Amendments (Social Security, etc.) Act 2013.

**Miscellaneous Amendments (Social Security, etc.) Bill 2013  
Second Reading approved**

2585

**Minister for Enterprise, Training, Employment and Health & Safety (Hon. J J Bossano):** Mr Speaker, I have the honour to move that the Bill be now read a second time.

2590 Mr Speaker, the explanation of what the Bill does in the explanatory memorandum, I think, is so self-evident that there is little that I need to add to what it does. The Principal Auditor in this year's report made reference to the fact that this has been promised for a number of years and that, finally, the final draft was ready and was expected to be brought to the House soon.

2595 One of the issues in terms of the ability to collect PAYE which has been deducted at source from employees has been that the same provisions did not exist in respect of Social Insurance and therefore when the Social Insurance was transferred to the Income Tax Office for collection, they were able to collect part of the money from the Directors if they remained unpaid, but they were not able to do the Social Insurance part as well.

2600 Effectively, what this does is treat the liability of employers in respect of Social Insurance deductions in exactly the same way as has been the case until now for PAYE – frankly something that I think is very necessary, because here we are not simply talking about taxpayers not being able to meet their own obligations, but employers who effectively are collecting tax on behalf of the Government from the wages of workers and Social Insurance contributions from the wages of workers, and then failing to hand the money over.

2605 The amendments that are being brought in are something that has been for many years recommended as necessary, if we are going to make inroads into the arrears of social insurance by the Principal Auditor

and, as I have said, in this year's audited accounts, the Principal Auditor welcomed the fact that the Bill was now ready and was expected to become law in the current year.

So I commend the Bill to the House.

2610 **Mr Speaker:** Before I put the question, does any hon. Member wish to speak on the general principles and merits of the Bill?

2615 **Hon. D J Bossino:** Yes, Mr Speaker. In fact, I am not sure that I agree with what the hon. Member has said in relation to the explanatory memorandum, and as to whether it accurately reflects everything that the Bill purports to do. This is obviously an omnibus Bill, in the sense that it amends a whole raft of Social Security primary and secondary legislation, as well as the Medical (Group Practice Scheme) Act.

2620 Mr Speaker, if I could first of all deal with the... Basically, there are headline issues, and if I deal with the amendments which are being suggested in respect of one of the Acts, it really applies across the board, because they are all very similar. As currently drafted, Mr Speaker, the Opposition finds difficulty in supporting this particular initiative, and I will go through the points now.

2625 The first point, Mr Speaker, is the fact that it appears now, if one goes to clause 2(4)(b), that the institution of proceedings are now to be done by the Director, and the addition of the words 'or any person authorised by him in writing'. It is not clear why that is the case. One of the issues that I thought as to why this was being done is in order to give flexibility for the Director to appoint somebody else to do the work for him, in terms of recovery of debts.

Of course, that flexibility is already set out in the current legislation. If one goes to section 45(3) of the Social Security (Insurance) Act – this is an amendment to that particular Act – it provides that:

2630 'Proceedings for the summary recovery of a civil debt of sums due to the Fund may be instituted by an inspector or other officer authorized in that behalf by special or general directions of the Director...'

2635 So there is already that flexibility inherent in the current legislation. It is not clear to me why there is a requirement now to give the Director the statutory power to divest himself of the statutory power he has to another person – and notably, Mr Speaker, another person potentially outside the Civil Service, because the word used is not 'officer', it is 'a person' so that could be a natural or indeed a corporate body, outside the Civil Service who would be in effect doing debt recovery in relation to Social Insurance contributions.

So without going into the matter in a lot of detail, Mr Speaker, it is a matter of concern that we have on this side of the House.

2640 One of the points I would ask the Hon. Minister to address, and to assuage certainly concerns that I have, is that if there is indeed a divesting of those statutory powers to a third-party person, completely at arm's length from the Gibraltar Government, and that person will be exercising certain statutory powers in terms of recovery of debt, what will be the public law remedies available for a person who has agreed by any actions taken by that individual or corporate body on behalf of the Director of Social Services, in terms of adjudication in courts, by way of judicial review, and what have you? That is certainly a matter which I would raise as a point of concern and I would be grateful if the Hon. Minister would confirm whether he has considered this and whether he has addressed it in his own mind, before presenting this as an amendment to the Bill.

2650 Mr Speaker, in the same clause, clause 2(4)(b), there is the introduction of a new subclause (5), which basically reads that:

2655 'If the employer, being a body corporate, fails to pay to the Fund any sum which the employer has been ordered to pay, that sum, or such part thereof as remains unpaid, shall be a debt due to the Fund jointly and severally from any directors of the body corporate.'

2660 Now, various issues arise in relation to that, Mr Speaker. Ordered to pay by whom? Of course, this appears to me, Mr Speaker, to be in effect an extrapolation of the exact wording in section 48(4) of another Act which is being amended today, which is the Social Security (Employment Injuries Insurance) Act, which reads in exactly the same way, but of course, Mr Speaker, the context of that particular provision is completely different to the context of the amendment which is being introduced to the Insurance Act. That is that in section 48(4)... if one goes to 48(1), it provides that:

2665 'In any case where an employer is convicted of the offence of failing to pay a contribution, he shall, in addition to any other penalty, which may be imposed under this Act, be liable and may be ordered by the court to pay to the Fund a sum equal to the amount, which he failed to pay.'

So it is in that context, where there is an order of the court, that it is relevant to section 48(4) of the Social Security (Employment Injuries Insurance) Act, but not so in the case of the amendment which is being proposed in relation to the Social Security (Insurance) Act, Mr Speaker.



2670 The other issue which I wish to raise in relation to that amendment is that it is proposed... Well, in fact, the clause as currently drafted, which the hon. Member wished to introduce to the Insurance Act, does not include the words in relation to corporate liability of directors, the following words:

2675 'who knew, or could reasonably be expected to have known, of the failure to pay the contribution or contributions in question.'

2680 Now, this raises a number of points, Mr Speaker. Is it not possible that a non-executive director could be held liable and culpable? There are situations where, for example, as I understand it – I am not an expert – but in the insurance world, there is a requirement to have two local directors. Now, those local directors are highly unlikely to have any day-to-day management or knowledge, indeed, of what is going on in the company. So if in those circumstances, there is a failure by that particular employer to pay Social Insurance, is it not wrong that, without imputing any knowledge, a director is automatically culpable?

2685 Indeed, Mr Speaker, in some research that I did before coming here today, the analogous position in the UK, under the Social Security Administration Act of 1992, provides... I think it is the Secretary of State there who may issue a personal liability notice to a body corporate who has failed to pay the contributions due at or within the prescribed time. But that failure only arises when, in the opinion of the Secretary of State, the failures are attributable to the fraud or neglect of one or more individuals, who at the time of the fraud or neglect were obviously officers of the company. None of that, Mr Speaker, is in the amendment which is being proposed here, and that is obviously a matter of concern.

2690 Mr Speaker, the other amendments proposed seem fine. I think they are tidy-up amendments, in terms of numbering of schedules and references to parts of schedules which were not there in the principal Act originally, which of course we have no difficulty with.

2695 Mr Speaker, also in relation to the schedule to the Insurance Act and it applies across the board, where I see that there has been an amendment – and perhaps the hon. Member in his reply can explain to me the rationale behind that, because I simply do not follow it – where there is a splitting of the contributions by reference to the Act, as opposed to by reference to the fund itself. So I would be grateful for any explanations in relation to that.

2700 Mr Speaker, if I could just briefly review the Bill, quickly. I think, yes, another provision which cuts I think right across all of them is that the hon. Member is proposing to remove, in effect, the limitation period. As matters currently stand, you are basically off the hook if there is failure to take action on behalf of the fund, within a period, I think it is, of three years. I can understand that there is an analogous situation in relation to Income Tax, where I understand that once you have been assessed for Income Tax, there is no limitation period, and that in fact is expressly excluded in the Limitation Act itself. But maybe it is something that we could consider, as to whether there *ought* to be a prescription of the ability to be able to claim in relation to Income Tax as well after a certain period of time. Because, obviously, the whole point of limitation periods is that people, their memories will fade, there may be an inability to find witnesses and all the rest of it, so it is there for a reason. I am slightly less uncomfortable with that, because I can understand the rationale, but it is certainly a point which I raise as a matter of concern.

2710 Mr Speaker, I think all the points I have raised in relation to the amendments to the Insurance Act, again, they apply to all the others.

Mr Speaker, that is the end of my contribution.

**Hon. P R Caruana:** Mr Speaker, if I could just contribute to this debate, very quickly.

2715 The Hon. Minister said that this was bringing Social Insurance contributions [*Inaudible*] more or less into line with the PAYE regime and correctly reminded the House of something that we have often said to each other in the past, that there is a difference between a debt that you incur, on the one hand, and on the other hand, taking money out of a worker's pay packet and helping yourself to it and not forwarding it. And that is true and I think that the latter situation calls for much less sympathy than the former.

2720 The only limited point that I would like to make to him is, of course, that distinction does not apply to all aspects of Social Insurance contributions, because only *part* of Social Insurance contribution is 'taken from the worker's pay packet'. The employer's part of the contribution is not money to which the employer has helped himself from the employee, and therefore is much more akin to an unpaid debt. It is a primary liability of the employer. So to that limited extent of the employer's contribution, the analogy between the PAYE and the Social Insurance contribution breaks down, which is not to say that aligning the two regimes is necessarily, for that reason, wrong.

2730 I would, however, urge the hon. Members opposite to just think, before dismissing, the point that my learned Friend, Mr Bossino, has made in respect of the *absolute* liability of *all* directors. It is this reference to *any* director. Now, the hon. Member has said, in relation to PAYE, that this is just aligning the regime and that this provision exists. Well, I do not remember whether the PAYE regulations or the Income Tax Act say it in these terms, or whether it says it in terms that my learned Friend has mentioned,

about some language that imports some degree of knowledge or knowledge ability or culpability – whichever, and even if it is the Income Tax, it reads like this.

2735 I would urge the hon. Members to just give a little bit of thought to whether this is simply not too harsh a regime. ‘Any director’ as much includes the executive managing director, who consciously makes the decision to do these things, as it does the non-executive director, whose legal obligation it is to attend three or four board meetings a year, and make policy for the company, but has no actual knowledge of the day-to day conduct of the company’s business.

2740 Now, that is the point that my learned Friend has made. If this language is shorthand for the way directors are made liable in other legislation, then it may be that what they have dropped here is the culpability language, which would accommodate the point that I am making. If that is not a defect – in other words, if it is stated elsewhere in these precise terms, ‘any director’ – then there is an important issue here.

2745 Corporate governance principles require now, increasingly, companies to have non-executive directors. Non-executive directors are going to be very reluctant to serve, if they are obtaining personal liability for company debts which they are really not in a position, as non-executive directors, to monitor and to decide whether they happen or not.

2750 I do not know whether the hon. Members are minded to, but some language, such as my learned Friend has read out, about the imputability of knowledge or culpability to qualify the words ‘any director’ would militate the harshness of making every single board member, regardless of how remote they are from being able to protect themselves against this, actually having personal liability for the debt.

There are no politics in this point; it is an entirely technical point. If the hon. Members do not think it has merit, then so be it. But I think there is a serious point there on that question.

2755 **Chief Minister (Hon. F R Picardo):** Mr Speaker, if I may just try and assist in dealing with some of the points that have been raised by my learned and hon. colleagues on the other side.

In section 2(4)(b)(4), the Hon. Mr Bossino has told us that he does not understand why there has to be a reference to the director authorising a person in writing, when in fact in the previous subsection of section 45 of the Social Security (Insurance) Act, there is already the provision for authorisation by the director.

2760 I think that the reason for that, if he follows my logic, will be clear. If he looks at section 45(2) and 45(3), they are both dealing – the ones in the principal Act – with *summary* recovery as civil debts. Has he got that? (**Hon. D J Bossino:** Yes.) Summary recovery of civil debts, and the authorisation power is in respect of summary recovery of civil debts.

2765 In the new 45(4) as it will be, we are dealing with debts being recovered, *other* than through summary proceedings. Therefore, there needs to be, in my reading, a power for the director to authorise people in respect of those other non-summary proceedings, because the power in subsection (3) of the existing Act is only a power in respect of summary proceedings. Does he see the point? (**Hon. D J Bossino:** Yes.)

2770 The second point that he made, dealing I think with the new proposed subsection (5), is when he says, well, this business of ‘has been ordered to pay’ – who is it that would have been making such an order to pay? Well, in fact, if he looks at the context, this is going into section 45, as a new subsection (4) and new subsection (5), the heading to section 45 is ‘Civil proceedings to recover sums due to fund’. We are dealing with authorising how those proceedings will start and be dealt with and, therefore, I believe that it is clear that any order to pay is an order to pay in such summary or other civil proceedings. I do not therefore think that there is any need to make a change to the proposed wording, for that reason.

2775 Finally, Mr Speaker, I want to just deal with this point about the joint and several liability of directors of companies. I hear what the hon. Gentleman has – (*Interjection*) Before I deal with this? (*Interjection*) It deals with the other point. Yes, sure –

**Hon. D J Bossino:** Yes, I am grateful.

2780 Mr Speaker, the Hon. the Chief Minister makes – I can understand where he is coming from – a distinction between the summary recovery of debts, which is the current architecture set out in section 45 of the Social Security (Insurance) Act, whilst the amendment says that, if it is, sort of, outwith the summary proceedings, then one needs... it gives the director the ability to appoint... either to institute the proceedings himself or any person authorised by him in writing. Now, if that is the rationale for, or the answer to that point, can the Chief Minister assist me and explain why that distinction is not also made in relation to the proposed amendment to the Social Security (Employment Injuries Insurance) Act, which is at clause 3(4), where there is simply no distinction? It simply says that:

2790 ‘All sums due to the Fund shall be recoverable as debts due to the Crown...’

and basically repeats – not word for word, incidentally, and I think what it is lacking makes the drafting worse, if I may say so –

'and without prejudice to any other remedy may be recovered summarily as a debt.'

2795 The other provisions state that it will be recovered by a director, but that is an aside point.

Again, there is simply no distinction there, so it seems that, even in relation to new section 45A, to the Acts I have just referred to – it is a pretty long title, so I will not read it again – there is simply no distinction made. All it says is that:

2800 'Proceedings for the recovery of civil debts of sums due to the Fund may be instituted by the Director' again 'or any person authorised by him in writing.'

2805 So if the distinction is that in relation to summary proceedings, it can be done by a director or another officer authorised by him, with special or general directions from the director, but outwith summary proceedings, it requires another person authorised by the director without these controls, can he explain why that distinction does not arise in relation to the amendment which is proposed to clause – I referred to it earlier – clause 3(4)?

2810 **Hon. Chief Minister:** Well, I do not accept that it does not, Mr Speaker.

If he looks at what is proposed, at what will be also a new section 45, but here the whole new section 45, the first new subsection 45A(1) deals with a general provision as to recovery of civil debt; the second proposed subsection deals with summary recovery of civil debt; and the third, which is the bit that talks about proceedings being instituted by the director, is silent as to whether those proceedings are summary proceedings or non-summary proceedings. It just talks about civil debt. So I think that is where the distinction lies.

2815 I am not going to get into the amendment to section 48 of that Employment Injuries Act that is also being amended here.

Now, if I could –

2820 **Hon. P R Caruana:** Would the Hon. Chief Minister give way?

**Hon. Chief Minister:** Yes.

2825 **Hon. P R Caruana:** *[Microphone not on]* One distinction between the old language and the new language, which is not a likely one, is of course the use of any other 'person', as opposed to any other 'officer', suggesting that under the new amendment, it would not be another officer who was a civil servant, and that opens the possibility to a non-civil servant being appointed, under the new amendment, authorised under the new amendment, which could not be authorised. In other words, in the previous regime, it had to be an officer which was defined *[Inaudible]* through the Crown, whereas 'any person', which is the new language, opens up the possibility of sub-contractors to a company to private –

2830

*[Technical interruption]*

2835 **Hon. P R Caruana:** Repeat again?

In summary, Mr Speaker has asked me to repeat, but I will do so in summary, that one distinction in the language that he is not alluding to is the reference to 'any person', as opposed to another officer, under the old regime, which would have required it to be a civil servant. Any person, of course, can be any person, including a private contractor out or something like that. Is that a conscious piece of drafting? Has the Government chosen any person, as opposed to another officer, precisely so that it might be free to sub-contract this out to private sector companies or others?

2840

2845 **Hon Chief Minister:** Mr Speaker, there is no intention to sub-contract this out; this is the language that has been proposed by draftsmen. He will know that there are some debts which are recovered by people who are not officers. For example, he will know that in rates and rents, the recovery process is undertaken by Land Property Services, for example, but this is simply law draftsman language, rather than politically invented language. There is no reason, I think, to read into it than any intention to privatise.

2850 Mr Speaker, if I may deal finally just with the third issue that has been raised, which is the issue raised initially by my learned Friend, Mr Bossino and then by Sir Peter Caruana. I think it is very clear that people who are directors of companies have obligations to those companies, and that you cannot have shades of responsibility set out in legislation. Whether a judge wants to make determinations as to liability, when it comes to what a person did as a director, is a matter for courts, but in terms of liability, the liability, I think it is right, should be on all directors at a particular time.

2855 Now, you have executive and non-executive directors. Well, that is a distinction which is not strictly legal. A director is a director of a company and he has all the obligations of a director of a company. In

the old days, the hon. Gentleman will recall there was the mantra that there is no such thing as a nominee director and people used to go round saying, 'I am a nominee director of this, of that or the other', when there was no such thing.

2860 Now, we are dealing here with monies taken from people's pay packets, to a very great extent, although I take the point of the hon. Gentleman that, in some respects, there are amounts which are the liability of the employing entity, not taken from the wage packet of the employee. Therefore, Mr Speaker, I think it is absolutely right that we should consciously say that this is the liability of *all* directors of companies. Is it possible that one director could hide from the others that the liability is not being met? Absolutely, it is. Then there is a fraud being committed by that director on the other directors.

2865 Is it possible that one director could say that he would not give the information? Well, if people are directors of companies, then they are able to write to the Commissioner of Income Tax or the Director of Social Security and ask for up-to-date information on the amounts that are due and have been paid in respect of Social Insurance or PAYE, as the other example given. And in our view, Mr Speaker, if you are a director of a company, and you are taking a fee for being a director of a company, that means that you also have responsibilities to the company and to the employees in respect of Social Security and in respect of PAYE, etc. Otherwise...

2870 Therefore, we will not be persuaded that that is not language that should not actually be there. It is language that is important that people are aware *is* there, and that they take their responsibilities therefore in respect of liabilities to Social Security as seriously as they are required to take all their other responsibilities as directors, whether they are executive or non-executive.

2875

**Mr Speaker:** Does the hon. mover wish to add anything to the debate?

2880 **Hon. J J Bossano:** Well only, Mr Speaker, to say that we are very clear that what we are trying to do is bring about a situation where the Social Insurance contributions, as well as the PAYE contributions, are paid when they are supposed to be paid.

2885 For as long as I have been here, the Principal Auditor has been pointing out to Members of this House that the volume of arrears of Social Insurance has kept on growing up inexorably, and that there was a constant need to do something about it. The effect of course of the absence of that is that we have a Social Insurance Fund which is running at a deficit of £10 million, and that in effect, if we were trying to put that right, as we think we need to put it right, simply by reflecting what is needed to make the fund self-financing, what you would then be doing is passing the burden of the disappearance of this money on to other contributors, which would be completely wrong.

2890 So I think it is important that the message should go out that people will not be allowed to get away with it, and therefore, they have to take their responsibility seriously. Indeed, the system that was put in place by the previous administration, regrettably, has not had the effect that it would have been expected to have, which was that since this money is supposed to be handed in at the same time as the PAYE, there would be a commensurate improvement in the collection of Social Insurance. I think the fact that the same tough regime did not exist meant that if people had to choose between paying one or the other, they would pay the PAYE, which had greater consequences than the Social Insurance. We hope that the matter will be seen to be put right and that we will see –

2895

**Hon. P R Caruana:** Would the hon. Member give way?

2900

**Hon. J J Bossano:** Yes.

**Hon. P R Caruana:** Is he therefore just confirming what I was not aware of, that in fact in respect of PAYE, it does say 'any director' without any culpability language, or is he not aware of that?

2905

2910 **Hon. J J Bossano:** Mr Speaker, as far as I am aware, it does, because, you know, as I have said, the political will to bring this about was simply in terms of something that was already under consideration before 2011, reflected in the Auditor's report, and that in fact, in the 2012 report, the Auditor mentioned that he had been informed by the director in response to the annual comment that something needed to be done about these arrears, that the legislation was on the point of being finalised. But it is not something that has been put together with a political input requiring certain things to be included, except that the political directive has been to put in something that we are sure, or that the drafter is sure, is going to produce the results that we want to produce, which is namely that people will do what is their obligation, which is to hand over the money they have collected.

2915

I know that there is a point in saying the employer also is paying something, but of course, if you have got two employers and one pays the contribution for the employee and the other one does not and gets away with it, then what you have got is unfair competition, where eventually the good employer

says, 'Well look, I cannot compete with the other guy that is not paying his dues and getting away with it' – in this as in everything else.

2920 So I believe that the Bill has been designed over a number of years to achieve the same effectiveness in the collection of Social Insurance as was already in place for PAYE collections. That is what this is intended to do and there has not been any particular part of it that has been the result of a political decision.

2925 **Mr Speaker:** I now put the question, which is that a Bill for an Act to amend various Acts on Social Security and related subsidiary legislation to the Medical (Group Practice Scheme) Act, the Limitation Act; and for connected purposes, be read a second time.

Those in favour? (**Government Members:** Aye.) Those against? The Opposition?

2930 **Hon. D A Feetham:** We are abstaining.

**Mr Speaker:** You are abstaining. Carried.

**Clerk:** The Miscellaneous Amendments (Social Security etc.) Act 2013.

2935

**Miscellaneous Amendments (Social Security, etc.) Bill 2013  
Committee Stage and Third Reading to be taken at this sitting**

2940 **Minister for Enterprise, Training, Employment and Health & Safety (Hon. J J Bossano):** Mr Speaker, I beg to give notice that the Committee Stage and Third Reading of the Bill be taken today, if all Members agree.

2945 **Mr Speaker:** Do all hon. Members agree that the Committee Stage and Third Reading of the Bill be taken today? (**Members:** Aye.)

**COMMITTEE STAGE**

2950

**Crimes (Amendment) Bill 2013;  
Miscellaneous Amendments (Social Security, etc.) Bill 2013**

2955 **Clerk:** Committee Stage and Third Reading.  
The Hon. the Chief Minister.

2960 **Chief Minister (Hon. F R Picardo):** Mr Speaker, I have the honour to move that the House should resolve itself into Committee to consider the following Bills clause by clause: the Crimes Amendment Bill 2013; and the Miscellaneous Amendments (Social Security, etc.) Bill 2013.

*In Committee of the whole Parliament*

2965

**Crimes (Amendment) Bill 2013  
Clauses considered and approved with amendment**

2970 **Clerk:** A Bill for an Act to amend the Crimes Act 2011.  
Clause 1.

**Mr Chairman:** Stands part of the Bill.

**Clerk:** Clause 2.

2975

**Minister for Education, Telecommunications and Justice (Hon. G H Licudi):** Mr Chairman, after clause 2, I am proposing an amendment, with the insertion of a new heading, called 'Amendment of the

Criminal Justice (Amendment) Act 2013'. Then it would say: '(3) The Criminal Justice (Amendment) Act 2013 is amended by repealing section 2(13).'

2980 **Mr Chairman:** Does any hon. Member wish to speak on the amendment proposed by the Hon. Mr Licudi? In that case, I will put the question, that the amendment be carried. Those in favour? (**Members:** Aye.) Those against? Carried.

**Clerk:** The long title.

2985 **Mr Chairman:** Clause 2 as amended? Clause 2 as amended stands part of the Bill.

**Clerk:** The long title.

**Mr Chairman:** Stands part of the Bill.

2990

**Miscellaneous Amendments (Social Security, etc.) Bill 2013**  
**Clauses considered and approved**

2995

**Clerk:** A Bill for an Act to amend various Acts on Social Security and related subsidiary legislation, the Medical (Group practice Scheme) Act, the Limitation Act; and for connected purposes. Clauses 1 to 8.

3000 **Mr Chairman:** Stand part of the Bill.

**Clerk:** The long title.

3005 **Hon. D J Bossino:** Mr Chairman?

**Mr Chairman:** Yes, the Hon. Mr Bossino.

**Hon. D J Bossino:** Mr Chairman, in relation to the *[inaudible]*. Mr Chairman, I am not sure whether the hon. Members opposite have had a chance to consider – I am sure they have not – the point... It was a point of principle, but also a drafting issue, which arises from clause 2(4)(b), and the introduction of new subclause (5).

3010 If you recall in my intervention, I queried who is going to be the party ordering to pay. It is not set out clearly. In the context of a different Act, which I think is the (Employment Injuries Insurance) Act, it is clear it is the court which orders to pay. As it currently stands, just extrapolating that provision from the (Employment Injuries Insurance) Act into the (Insurance) Act, I do not think works from a drafting perspective. I just wondered whether any thought could be given to that point now?

**Chief Minister (Hon. F R Picardo):** Mr Speaker, the position that I tried to explain to the hon. Gentleman was that actually we think it is clear, that the order to pay is the court and that it is in the section simply about civil proceedings, and that is how I think it is dealt with.

3020

**Clerk:** Going back to announcing clauses 1 to 8.

3025 **Mr Chairman:** Clauses 1 to 8. Those in favour? (**Government Members:** Aye.) Those against?

**Hon. D A Feetham:** We are abstaining.

**Mr Chairman:** You are abstaining? The Opposition abstains.

3030

**Clerk:** The long title.

**Mr Chairman:** Stand part of the Bill.

3035

**BILLS FOR THIRD READING**

3040

**Crimes (Amendment) Bill 2013;  
Miscellaneous Amendments (Social Security, etc.) Bill 2013  
Third Reading approved: Bills passed**

**Clerk:** The Hon. the Chief Minister.

3045

**Chief Minister (Hon. F R Picardo):** Mr Speaker, I have the honour to report that the Crimes Amendment Bill 2013 and the Miscellaneous Amendments (Social Security, etc.) Bill 2013 have been considered in Committee and agreed to, without amendment, except for one small one on the Crimes (Amendment) Bill, and I now move that they be read a third time and passed.

3050

**Mr Speaker:** I now put the question, which is that (1) the Crimes (Amendment) Bill 2013; (2) the Miscellaneous Amendments (Social Security, etc.) Bill 2013 be read a third time and passed.

Those in favour of the Crimes (Amendment) Bill 2013? (**Members:** Aye.) Those against? Carried.

Those in favour of the Miscellaneous Amendments (Social Security, etc.) Bill 2013? (**Government Members:** Aye.) The Opposition abstains? (**Hon. D A Feetham:** Abstains.) The Opposition abstains. Carried.

3055

**ADJOURNMENT**

3060

**Clerk:** The Hon. the Chief Minister.

3065

**Chief Minister (Hon. F R Picardo):** Mr Speaker, I congratulate Members opposite for having the maturity of sitting through this particular meeting of Parliament, and I now move that the House do now adjourn *sine die*.

**Mr Speaker:** I now put the question, which is that the House do now adjourn *sine die*. I now put the question, which is that this House do now adjourn *sine die*. Those in favour? (**Members:** Aye. ) Those against? Carried.

3070

The House will now adjourn *sine die*.

*The House adjourned at 7.30 p.m.*