



PROCEEDINGS OF THE GIBRALTAR PARLIAMENT

AFTERNOON SESSION: 3.00 p.m. – 3.30 p.m.

Gibraltar, Thursday, 21st February 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*]

Order of the Day

Questions for Oral Answer

Clerk: Sitting of Parliament, Thursday 21st February 2013.

CHIEF MINISTER

Chief Minister's official car Hybrid replacement

Clerk: Answers to Oral Questions continue.

Question 194/2013, the Hon. D A Feetham on behalf of the Hon. S M Figueras.

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Hon. D A Feetham: Mr Speaker, can the Chief Minister state whether a hybrid replacement for the Chief Minister's official car (G1) has now been identified and/or ordered?

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Clerk: Answer, the Hon. the Chief Minister.

Chief Minister (Hon. F R Picardo): Mr Speaker, the answer remains as set out in October in answer to Question 918/2012.

15 **Hon. D A Feetham:** Mr Speaker, in the light of the fact that the Chief Minister described the G1, when he was Leader of the Opposition and indeed spokesman for the environment, as, and I quote, ‘the gas-guzzling Jaguar’, has the G1 become less gas-guzzling now that he is extensively using it as Chief Minister?

20 **Hon. Chief Minister:** Mr Speaker, may I first of all refer to the fact that Mr Figueras is not here for reasons which are outside of his control. He enjoys of course the sympathy of the Government for the reasons why he is not here and I very much look forward to seeing him back in the House very soon.

Mr Speaker, that question has an answer which is self-evident but I refer the hon. Gentleman to my answer to Question 918/2012, which explains why we have not yet been able to replace the gas-guzzling Jaguar.

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**British Gibraltar Territorial Waters
Incursions by Spanish State vessels**

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Clerk: Question 195, the Hon. D A Feetham.

35 **Hon. D A Feetham:** Mr Speaker, can the Chief Minister please state how many incursions, excluding innocent passage, into British Gibraltar Territorial Waters by Spanish State vessels there were: (a) last year; and (b) this year, providing a breakdown by month?

Clerk: Answer, the Hon. the Chief Minister.

40 **Chief Minister (Hon. F R Picardo):** Mr Speaker, I will answer this question together with Questions 196 to 198.

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**British Gibraltar Territorial Waters
Spanish fishermen entering to fish with nets**

Clerk: Question 196.

50 **Hon. D A Feetham:** Can the Chief Minister please state how many times, (a) last year and (b) this year, have Spanish fishermen sailed into British Gibraltar Territorial Waters unaccompanied by Spanish State vessels to fish with nets, providing a breakdown by month?

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**British Gibraltar Territorial Waters
Spanish fishermen entering to fish with nets**

Clerk: Question 197.

60 **Hon. D A Feetham:** Can the Chief Minister please state how many times, (a) last year and (b) this year, did Spanish fishermen sail into British Gibraltar Territorial Waters accompanied by Spanish State vessels in order to fish with nets, providing a breakdown by month?

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**British Gibraltar Territorial Waters
Spanish fishermen arrested for unlawful activity**

70 **Clerk:** Question 198.

Hon. D A Feetham: Can the Chief Minister please state how many Spanish fishermen have been arrested for any unlawful activity in British Gibraltar Territorial Waters since 1st January 2012?

Clerk: Answer, the Hon. the Chief Minister.

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Chief Minister (Hon. F R Picardo): Mr Speaker, in answer to Questions 195, 196 and 197, I now hand the hon. Member a handout with the information requested.

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In answer to Question 198, Mr Speaker, no Spanish fishermen have been arrested for unlawful activity in British Gibraltar Territorial Waters since 1st January 2012, although as hon. Members will be aware, one such person has been summoned for related offences and is presently the subject of ongoing proceedings in the Magistrates' Court.

ANSWER TO QUESTION 198
ANSWER TO QUESTION 195

2012												
	January	February	April	May	June	July	August	September	October	November	December	
Major Incident (Class A)				1		2	1		1	1		
Minor Illegal Incursion (Class B) i			4	31	13	24	25	10	9	8	13	
Minor Illegal Incursion (Class B) ii		1		7	3	1	1			1		
Minor Illegal Incursion (Class B) iii		1	2	4		2	1	1				
Minor Illegal Incursion (Class B) iv		1				2		1		1	1	

2013		
	January	February
Major Incident (Class A)		
Minor Illegal Incursion (Class B) i	14	
Minor Illegal Incursion (Class B) ii		
Minor Illegal Incursion (Class B) iii	3	
Minor Illegal Incursion (Class B) iv		

Definition of types of Incursions

- a) Major Incident (Class A). A major breach of UNCLOS Article 19 regarding actions in another nation's territorial sea e.g. the boarding or attempted boarding of another vessel by a SGV. For a Spanish Naval Vessel this will usually have resulted in interaction with the Gibraltar Squadron (RNGS) with the RGP as lead for all other SGV.
- b) Minor Illegal Incursion s(Class B). A minor breach of UNCLOS Article 19 governing innocent passage through another nations territorial sea. In particular the requirement for a 'continuous & expeditious passage'[1], that may result in the reading of warnings, but does not constitute a Major Incident. Examples include:
 - i. Loitering or stopping
 - ii. Unjustified &/or repeated alterations of course.
 - iii. Investigating civilian vessels short of attempting to board.
 - iv. Any other action which could be construed as being 'on patrol'.
- c) Passage Incursions (Class C). Entry into BGTW by a SGV apparently for the purpose of a continuous and expeditious passage through the territorial sea. For the purpose of this analysis the fact that UNCLOS Article 19 states that passage is not innocent if it is 'prejudicial to the peace, good order or security of the coastal State'[2] is ignored.
- d) Aircraft Incursions (Class D). Entry into the airspace above BGTW by any Spanish Government Aircraft. Note that unlike SGV such aircraft have no right of innocent passage whatsoever.

[1] UNCLOS Article 18 Paragraph 2
[2] UNCLOS Article 19 Paragraph 1

ANSWER TO QUESTION 198
Answer to Question 196

2012													
	January	February	March	April	May	June	July	August	September	October	November	December	
Fishing Incursions Net Fishing (Not accompanied)	4	1	6	3	3			2	13	11	9	3	

2013		
	January	February
Fishing Incursions Net Fishing (Not accompanied)	7	5

Answer to Question 197

2012													
	January	February	March	April	May	June	July	August	September	October	November	December	
Fishing Incursion Net Fishing (Accompanied)					12	1	12	9		4	4	3	

2013		
	January	February
Fishing Incursion Net Fishing (Accompanied)	3	

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Hon. D A Feetham: Mr Speaker, does the Hon. the Chief Minister accept that the enforcement of the rule of law is an integral part of the integrity of the rule of law and that without proper enforcement there is in fact no rule of law?

Hon. Chief Minister: Mr Speaker, absolutely.

90 **Hon. D A Feetham:** Mr Speaker, can the Chief Minister inform this House as to whether he is satisfied about the rule of law being upheld in British Gibraltar Territorial Waters?

95 **Hon. Chief Minister:** Mr Speaker, I am satisfied that the Government's responsibility not to do agreements contrary to the law of Gibraltar, that the rule of law should be explicitly agreed to be broken by nationals of Gibraltar or any other state is a situation that has been rectified since our election on 8th December 2012.

100 **Hon. D A Feetham:** Mr Speaker, does the Chief Minister regret setting himself up as the champion of the rule of law and indeed doing away with the 1999 agreement on precisely that basis, when the rule of law no longer appears to rule in British Gibraltar Territorial Waters and that rule is more violated today than at any time in our political history?

105 **Hon. Chief Minister:** Mr Speaker, this Chief Minister and this Government remain champions of the rule of law, as any Government should be, and neither should any Government believe that it is proper to enter into agreements that the laws of Gibraltar should be broken, as the Government of which he was a Member was able to determine was appropriate in 1999. I recognise that he became a Member of that Government in 2007.

110 **Hon. D A Feetham:** Mr Speaker, what does the Chief Minister intend to do in order to deal with these systemic and very serious breaches and violations of the rule of law in British Gibraltar Territorial Waters?

115 **Hon. Chief Minister:** As the Hon. the Leader of the Opposition knows, or should know, many of the incursions to which he is referring have nothing to do with fishing; they relate to incursions by Spanish State vessels unrelated to the fishing issue that has arisen.

He will know that the Leader of the Party that he has replaced said in 2010, in a Ministerial Statement, that many of the responsibilities relating to incursions by Spanish State vessels were matters relating to the protection of Gibraltar's sovereignty that fell within the province of the Royal Navy and Her Majesty's Government in the United Kingdom.

120 He will also know, Mr Speaker, that the role of Government in Gibraltar in respect of the law is to ensure that those who are charged with enforcement have the resources available to them to discharge their obligations. The Government is ensuring that they have the resources available to discharge their obligations.

125 **Hon. D A Feetham:** Mr Speaker, finally, on this set of questions, may I remind the Chief Minister that, in December of last year, whilst he gave an interview with GBC and he specifically stated that the Government had acquired larger assets for the purposes, the specific purpose – and I can quote it, I have the quotation here – but paraphrasing, for the specific purpose of allowing the RGP to deal with Spanish fishermen incursion into British Gibraltar Territorial Waters.

130 Now, I could not help but notice that when he gave the speech in relation to the naming of the Sir William Jackson vessel, he omitted to mention that. Can he confirm that that vessel will now allow the Police to effectively better enforce our laws in British Gibraltar Territorial Waters and that that was one of the intentions on the part of the Government in respect of the acquisition of those vessels, of that vessel?

135 **Hon. Chief Minister:** Mr Speaker, I am surprised that he recalls what I said in my speech last week or earlier this week on the launching of the Sir William Jackson launch, because I did not see him there but I assume that he is referring to those parts of my speech which have been reported in the press.

140 Mr Speaker, I am not going to comment on what he says is the paraphrasing effect of what I said on a particular occasion in respect of a particular interview, but I will tell him this: the enforcement of Gibraltar's laws is a matter for those who are charged with that enforcement. We are charged with ensuring that they have the resources to do that job. I now believe that we have made more senior the assets of the RGP, in the manner that was necessary and we will continue to do so, in the manner that we have already announced, so that they can discharge their obligations to enforce Gibraltar's laws in British Gibraltar Territorial Waters, which define the jurisdictional ambit of the power of this Parliament.

145 Mr Speaker, how they do that and when they do that is not a matter for the Government; it is a matter for those who have the responsibility, knowledge, wisdom and understanding of how it should be done.

Hon. D A Feetham: Well, Mr Speaker, just one more question, in fact. Is he satisfied that now the RGP have the necessary assets in order to properly enforce the laws of Gibraltar in British Gibraltar Territorial Waters?

150 **Hon. Chief Minister:** Mr Speaker, I am satisfied that they are much better equipped to do so than they were before 8th December 2011.

155 **UK terms of membership in EU**
Impact on Gibraltar

Clerk: Question 199, the Hon. D A Feetham.

160 **Hon. D A Feetham:** Can the Chief Minister please state whether he has been briefed by Her Majesty's Government in the United Kingdom on the intentions of that Government in respect of any attempt to re-negotiate the terms of membership of the United Kingdom in the EU and how this might impact on Gibraltar?

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

Chief Minister (Hon. F R Picardo): Mr Speaker, at an inter-governmental level, Her Majesty's Government has been raising with the UK Government the issue of re-negotiation of the UK's form of membership of the EU and a potential EU exit since we were first elected.

170 I can inform the House that I raised the matter with the Rt Hon. David Lidington MP formerly, as early as my meeting with him in December 2012, long before the Prime Minister's speech on the subject in late January.

175 The Government has also previously and since, continued to discuss the matter with UK Government officials. Gibraltar has been involved in detail and, from the time that we were elected, in the UK's 'Balance of Competences' review that is on-going.

180 It was, in my view, essential, from the moment that we were elected, that Gibraltar should be involved in this review which the Foreign Secretary established to audit what the EU does and how it affects the UK, as it is essential that Gibraltar's interest must also be reflected in any such consideration. Similar engagement is also now occurring at an inter-governmental level with the FCO's 'Future of Europe' Department.

185 As all hon. Members will know, the Government has been in discussions also about the right of Gibraltarians to vote in any such in or out referendum. The Foreign Secretary has himself already agreed, at a recent Foreign Affairs Committee hearing, to start consideration of Gibraltar's inclusion in any such referendum.

Hon. D A Feetham: Mr Speaker, other than to ask him the question that I have asked him, I do not intend to pursue this across the floor of this House. There is a motion that I am moving in relation to precisely this issue.

190 But may I ask the Chief Minister – and I do not know what the position is that he is going to be taking in relation to that motion – but at the very least whether he undertakes to brief me privately in relation to all the issues arising out of those discussions and, of course, in particular, how far he believes that Gibraltar is going to be able to influence any re-negotiations, in a way that obviously protects Gibraltar's status and indeed Gibraltar's interests, whatever those interests may be, because there is a wide range of issues that impact on this particular problem.

195 **Hon. Chief Minister:** Mr Speaker, it is unusual to have a question and a motion which are so intrinsically linked, because one seeks information and the other one seeks to debate that information. I recognise that the hon. Gentleman will want to take matters further in the context of the motion.

200 Look, he is going to find me, as I told him when I replied to his Statement last week, always generous in wanting to share information in the interests of Gibraltar. So although he will not have my undertaking to do that, because that word has a legal meaning and I do not want to fall foul of a legal obligation, what I will tell him is that I will be happy to keep him informed of progress in respect of such matters as relate to the issue that this question raises.

205 I think it is important for him to look carefully at what I have said has already been established but also, Mr Speaker, I should say that we should not, when we are talking about issues related to the protection of Gibraltar's interests, fall into the trap of believing that if we debate them in here, we do not actually lay a trail for those who might want Gibraltar's interests not to be protected to understand exactly where it is that they have to go to lobby against us.

210 **Hon. D A Feetham:** Mr Speaker, may I say that I agree entirely with the Chief Minister and when he hears what I have to say in relation to my motion, he will see that I have approached it precisely on that

basis. It is a very neutral motion and when he hears my arguments, he will see they are couched in terms where I will not be asking the Chief Minister to effectively brief me or say anything that might alert others about potential arguments that could be used against Gibraltar in the future.

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Hon. Chief Minister: Well, Mr Speaker, I will wait to hear what it is that he has to say in support of the motion, but I hope that, having heard what I have said, he may if not curtail, because he might never have wanted to go down a particular route, at least take note of what it is that I have said and the information that I have given him and my confirmation that I shall seek to keep him informed of these issues.

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I would like to say that I will keep the public informed of these issues, but unfortunately there are also issues of diplomatic confidentiality between Gibraltar and the United Kingdom, of course, which may require that the public is not as aware of discussions as one might like them to be.

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**Chief Minister's trip to USA
Costs**

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Clerk: Question 200, the Hon. D A Feetham.

Hon. D A Feetham: Can the Chief Minister please provide the details of the entire costs of the recent trip to the United States, where he had an opportunity to meet President Obama?

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Clerk: Answer, the Hon. the Chief Minister.

Chief Minister (Hon. F R Picardo): Mr Speaker, the details of the costs invoiced and paid to date are as follows.

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I am afraid, Mr Speaker, that I usually am given a table to hand out. I do not have it now and I could read it out, but perhaps it is better that I make a photocopy of this and let him have it. This will set out for him the details of flights, hotel accommodation, transport, meals and something which has been reflected in the table as 'other costs' both in respect of myself, my wife, Minister Cortes and his wife, who travelled with us, and my senior personal assistant, who was with us throughout the trip.

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The 'other cost' he should note is equal in respect of each of us and that is something called the ESTA Meet and Greet Service, which is the service in Washington in order to go quickly through the airport which is much lower, he will see, than it is anywhere else in the world, £293 and given the particular circumstances of this trip, it was considered appropriate to use it on this particular occasion.

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He will note that when I have complained about the previous Chief Minister using such services, I always complained about them being used regularly and not punctually and on that on those occasions, the cost was in the region of £1,700 per trip to London. In this instance, it is £293.

Both Minister Cortes' and my expenses have already been provided on the Government website in the parts that set out such costs for our respective Ministries. We do not believe that there are any other costs to be invoiced. Should any further costs be received, they will be reflected in the statistics website.

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In the case of Mr Cortes, an additional cost is reflected of flights to Strasbourg and from then on to London. The hon. Member will know that Minister Cortes went to Strasbourg to meet the Commissioner responsible for Fisheries, I believe Commissioner Damanaki. The flights were sold as a package and therefore it is not possible to break down the costs of going to Strasbourg and then the costs of flying to London and Washington.

I am quite happy for him to have a photocopy of this page.

	CM	Spouse	Minister Cortes	Spouse	SPA/CM
Flights	£3,366.00	£3,366.00	£5,454.00*	£3,366.00	£3,366.00
Hotel Accommodation	£2,054.00	£2,054.00	£2,054.00	£2,054.00	£4,108.00
Transport	£211.61	£219.20	£226.83	£219.20	£211.59
Meals	£276.06	£276.05	£0.00	£0.00	£6.38
Other Cost	£293.00	£293.00	£293.00	£293.00	£293.00

260 **Hon. D A Feetham:** Mr Speaker, does this include any tickets for attending the Democratic Party function at which he met President Obama?

265 **Hon. Chief Minister:** There has been absolutely no charge to the Government of Gibraltar in respect of any tickets.

Hon. D A Feetham: So Mr Speaker, this is the entirety of the cost of the trip, including any access fees, if there were any, for effectively attending any conference and meeting President Obama. This is the entirety of the cost that you are providing me with today.

270 **Hon. Chief Minister:** This is the entirety of the cost that has been invoiced. As far as I understand it, there is absolutely no cost to be invoiced in respect of any such tickets.

275 **Hon. D A Feetham:** Mr Speaker, can he just explain to the House... and he will not receive any criticism from us, because we think that it is entirely appropriate for the Chief Minister of Gibraltar to use any fast track facilities at the airport and he will not receive any criticism from us for using the facility. He may receive criticism from us for taking a position that was different to the position that he took when he was Leader of the Opposition, but certainly we think it is entirely appropriate for the Chief Minister of Gibraltar to do so.

280 But can he explain, given that he prefaced his comments, saying 'There were particular circumstances on the trip that required us to go through or make use of this facility', can he just explain what those circumstances were?

285 **Hon. Chief Minister:** Yes, Mr Speaker, the fact that we needed to arrive in Washington on a particular date and time in order to be able to fulfil the obligations that we had and that, as he knows, Washington is not Heathrow and although one may be expected to wait at Heathrow for ten, perhaps fifteen minutes on a bad day and if you have travelled Club not even that because there is a fast track facility for Club Class travellers and the Chief Minister of Gibraltar travels Club, in Washington and New York, he may wait three or four hours in an immigration queue, an experience that I have often had in New York, when travelling to the United Nations, and which this cost gave us an opportunity to avoid.

290 **Hon. D A Feetham:** So effectively, and I am concerned just simply with policy, the policy of the Government is really to look at this on a case-by-case basis and if circumstances require, in terms of those types of circumstances, that the Government would, the Chief Minister would use this kind of facility, but it is not really cost related. Can he confirm that is the position?

295 **Hon. Chief Minister:** Well, Mr Speaker, it is cost related in respect of the facility in the United Kingdom; it is not cost related in other particular circumstances.

300 For example, what the hon. Gentleman needs to understand is that the cost of using the VIP lounge at Gatwick and Heathrow oscillates between £1,400 or £1,700, adding more than the cost of travel again to the cost of using that facility at any of those airports, when in fact one may be able to walk through the airport much more quickly than using the VIP facility.

305 If he looks at the criticism that I have made in the past of what use was made by the previous Chief Minister, on every occasion that he travelled, where he sometimes paid more for the VIP facility than he paid for his flight, he will understand why I am setting out the policy that I am setting out now.

310 If you can avoid a three or four hour queue at an entry point into the United States, paying £293 per passenger, I believe that is completely different to incurring a cost of between £1,400 or £1,700 when there is no queue to avoid, simply, as the hon. Gentleman will know, what his predecessor as Leader of the Opposition used to tell me was, avoiding the inconvenience of having to take one's shoes off when exiting the United Kingdom and having to go through security. A matter which I am happy to tell him I have done on many occasions, when I have been Chief Minister. I have had in fact for my sins of having criticised this, been searched up and down on a number of occasions, much to the hilarity of my senior personal assistant who has been travelling with me.

315 **Hon. D A Feetham:** Mr Speaker, I feel so sorry for the Chief Minister that he has been treated in that particular way at the airport! (*Interjections and laughter*) I have to say it has not happened to me, but Mr Speaker, what I am trying to get at is the nub of Government policy in relation to this, and if I may say so, I think that the Chief Minister, perhaps because he is sensitive to the criticism that he made of my predecessor as Leader of the Opposition, his predecessor as Chief Minister, is really being slightly too defensive on this particular issue.

320 Does he not agree that it is a very narrow focus and perhaps the wrong focus to just simply look at this in terms of the cost, £1,400 or £1,700, because you could have circumstances where a Chief Minister of

the day, overburdened by the amount of work that he has, actually it is money well spent to be able to spend time in that facility, actually doing work on behalf of the people of Gibraltar, it is perfectly justifiable, and the vast majority of people would understand it.

325 Does he not accept that when he is just looking at it from the point of view of cost, and nothing else, it is not the right way to look at it and can I urge upon him a rethink of this position. And look, I may be able to criticise him once in relation to it, but I am not going to be continuing to criticise any change of policy, but it is the right policy using the facility in ways that works for the Chief Minister, for the Government of Gibraltar and for the people of Gibraltar.

330 **Hon. Chief Minister:** Well, Mr Speaker, the answer to those questions, ‘does he not agree’, ‘will he not consider’, is obviously no, because I have set out our position. We do not believe it is narrow minded, we do not believe it is necessary for the Chief Minister to have this additional cost added to his cost of travel in order to be able to work. This particular Chief Minister has been working and travelling for many years and has not needed a VIP lounge in order to be able to do so. There are some occasions when it may be necessary to use the lounge. Of course, I accept that and I accepted that when the previous Chief Minister was here, in particular the hon. Gentleman will know that I talked about if there were particularly short connection times and the Chief Minister of Gibraltar was going somewhere particularly important. If he was going to the United Nations and he had an hour between flights and this facility enabled him to catch a flight, well I think that is entirely appropriate.

335 But he can take it from me that one gets through the airport more quickly on occasions, when a Gibraltar flight lands at five or six o'clock in the evening at Heathrow, than going through this facility. If I agreed with any of what the hon. Gentleman said, well then, look, I would be acting in that particular way. The fact is that he is urging upon us that we should spend money that we do not want to spend. I will consider that we have a credit with him, at least in the amount of the use of that facility.

350 **Government revenue and expenditure**
Total for first six months of year

Clerk: Question 201, the Hon. D A Feetham.

355 **Hon. D A Feetham:** Can the Chief Minister please provide the total amount of Government revenue and the total amount of Government expenditure for the first six months of this current financial year?

Clerk: Answer, the Hon. the Chief Minister.

360 **Chief Minister (Hon. F R Picardo):** Mr Speaker, the tentative figures of Government revenue for the first six months of the current financial year, i.e. April to September 2012, totalled £234,555,285.06, whilst expenditure totalled £228,664,117.50.

The hon. Gentleman will note that I have prefaced this answer by using the words, ‘the tentative figures’. He knows that when these figures are given, they are tentative.

365

ADJOURNMENT

370 **Chief Minister (Hon. F R Picardo):** I have the honour to move that the House do now adjourn until tomorrow, Friday at 9.15 a.m.

Mr Speaker: I now propose the question, which is that this House do now adjourn to tomorrow morning at 9.15 a.m.

375 I will now put the question, which is that this House do now adjourn to tomorrow morning at 9.15 a.m. Those in favour? (**Members:** Aye.) Those against? Passed.

This House will now adjourn to tomorrow morning at 9.15 a.m.

The House adjourned at 3.30 p.m.