



# PROCEEDINGS OF THE GIBRALTAR PARLIAMENT

MORNING SESSION: 9.15 a.m. – 11.40 a.m.

Gibraltar, Thursday, 29th May 2014

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# The Gibraltar Parliament

*The Parliament met at 9.15 a.m.*

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

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

**PRAYER**  
*Mr Speaker*

## Order of the Day

**Substitute Clerk:** Meeting of Parliament, Thursday 29th May, 2014.  
(i) Oath of Allegiance.

### CONFIRMATION OF MINUTES

**Substitute Clerk:** (ii) Confirmation of Minutes – the Minutes of the last meeting of Parliament which was held on 20th and 21st March 2014.

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

*Mr Speaker signed the Minutes.*

### COMMUNICATIONS FROM THE CHAIR

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

10 **Mr Speaker:** I recognise this morning among us Mr Melvyn Farrell, once again, and I thank him for standing in for Mr Paul Martinez, who is away in Cardiff on CPA business. (*Banging on desks and applause*)

**Substitute Clerk:** (iv) Petitions.

### ANNOUNCEMENTS

15 **Substitute Clerk:** (v) Announcements.

**Chief Minister (Hon. F R Picardo):** Mr Speaker, can I join you in welcoming back Mr Farrell for this short cameo appearance.

20 Mr Speaker, I am delighted to be able to announce and to share with all Members the excellent news reaching me from colleagues at the CPA conference, that Gibraltar has been able to secure the 47th Regional Conference of the British Isles and Mediterranean Region of the CPA. It will take place in Gibraltar in the spring of 2017. (*Banging on desks*)

**PAPERS TO BE LAID**

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

25 **Hon. Chief Minister (Hon. F R Picardo):** Mr Speaker, I have the honour to lay on the table the Air Traffic Survey Report 2013.

**Mr Speaker:** Ordered to lie.

30 **Substitute Clerk:** 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 lay on the table the Annual Report of the Parole Board 2013.

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

**Substitute Clerk:** The Hon. Mr Speaker.

40 **Mr Speaker:** I have the honour to report that in accordance with the Standing Order 12(3) the Ombudsman Annual Report for the year ended 31st December 2013 has been submitted to Parliament and I now rule that it has been laid on the table.

**Substitute Clerk:** (vii) Reports of Committees; (viii) Answers to Oral Questions.

## Questions for Oral Answer

### **TOURISM, COMMERCIAL AFFAIRS, PUBLIC TRANSPORT AND THE PORT**

**Q347/2014**  
**Sandy Bay –**  
**Importation of sand**

45 Question 347/2014, the Hon. D J Bossino.

**Hon. D J Bossino:** Mr Speaker, can the Minister for Tourism advise where the sand, which has been deposited at Sandy Bay, is being imported from?

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

**Minister for Tourism, Commercial Affairs, Public Transport and the Port (Hon. N F Costa):** Mr Speaker, the sand is being imported from Morocco.

55 **Hon. D J Bossino:** Mr Speaker, I am conscious that there is another specific question in the Order Paper directed at the Minister for Health. I am told by the Minister for Health that in fact there are two, and I think he is absolutely correct that there are two questions. That is really as a result of the reports that we have been receiving on the Opposition side as to insect bites which we understand are being caused by spiders which were imported in the sand. As I say, these are unconfirmed reports.

60 Is the Government... is the particular Minister I am asking the question to able, to address this in his answers this morning?

65 **Hon. N F Costa:** Mr Speaker as the hon. Gentleman just noted whilst my Hon. Friend, Dr Cortes, was making signs to him, there are two questions on that particular matter on the Order Paper. Whilst I know the answer, perhaps it would be appropriate for the Hon. Dr Cortes to answer at that point. But, if Mr Speaker wishes the Hon. the Minister for Health and the Environment to answer now that particular question, (*Interjection*) we are in his hands.

**Mr Speaker:** If you wish to call that particular question, we can do so.

70 **Minister for Health and the Environment (Hon. Dr J E Cortes):** Mr Speaker, I have two questions I believe. One from the Hon. Mr Netto and one from the Hon. Mrs Ellul-Hammond.

**Substitute Clerk:** Could you identify the question numbers please?

## HEALTH AND THE ENVIRONMENT

**Q363/2014**

**Sandy Bay beach –**

**Importation of sand; safety of users**

75 **Substitute Clerk:** Question 363, the Hon. S M Figueras on behalf of the Hon. J J Netto.

**Hon. S M Figueras:** Is the Minister for Health and the Environment satisfied that the sand recently imported from Morocco and used in an attempt to replenish Sandy Bay Beach, is safe for users?

80 **Substitute Clerk:** Answer, the Hon. the Minister for Health and the Environment.

**Minister for Health and the Environment (Hon. Dr J E Cortes):** Mr Speaker, yes, sir. The Department of the Environment is happy that the sand being used for Sandy Bay is safe for use. The Department's Officials regularly assess the sand and have *not* come across anything untoward.

**Q367/2014**

**Sandy Bay –**

**Invertebrates imported in beach sand**

85 **Substitute Clerk:** Question 367, the Hon. Mrs I M Ellul-Hammond.

90 **Hon. Mrs I M Ellul-Hammond:** Can the Minister for Health update this House on the treatment and recovery of two patients who were allegedly bitten by invertebrates supposedly found in the sand at Sandy Bay a few weeks ago, who needed hospital treatment; and if bitten, whether the bites were identified with a particular invertebrate and which type?

**Substitute Clerk:** Answer the Hon. the Minister for Health and the Environment.

95 **Minister for Health and the Environment (Dr J E Cortes):** Mr Speaker, the records show no such information specific to Sandy Bay. Thirty-seven incidents of bites and stings by invertebrates have presented at the Accident and Emergency Department at St Bernard's Hospital since 1st January this year. This is perfectly normal. So I repeat what I said, no such information specific to Sandy Bay is found in our records.

100 **Hon. D J Bossino:** When he says it is perfectly normal, Mr Speaker, I assume he means statistically it is nothing which should alarm us. Is that the case?

105 **Hon. Dr J E Cortes:** Yes, indeed. It is not alarming that we should have that number of bites and stings, particularly in the spring, as that is quite uneventful. It is eventful if you get a nasty sting from a wasp, but it is not statistically worrying.

**Hon. D J Bossino:** Mr Speaker, a wider question in relation to the same subject, and I think it is probably more appropriate for the Minister for Health, with your indulgence, Mr Speaker, that he should answer it.

110 Is there any standard procedure which is being carried out by the Government, in terms of checking the sand which has been imported from outside this jurisdiction, in terms of safety and other issues like that?

115 **Hon. Dr J E Cortes:** Mr Speaker, yes, the sand... when the appropriate Department identifies, they will inspect samples. They will make sure that it is screened, and as I said in my answer, Department of the Environment officials regularly go on to the beach and check that there is nothing untoward. There is nothing untoward.

I believe that the original comment that I read about this was somebody saying in a jovial fashion, I think, 'Oh, it has come from the Sahara. Imagine if they have brought scorpions', and I think in the normal Chinese whispers, which is typical of some of the social media, it suddenly became people were actually in hospital, and then scorpions became spiders. So I have looked at it. In fact I have looked at the records myself and there is no indication that there is anything untoward happening there.

120 **Hon. D J Bossino:** Mr Speaker, this is a question now for the Minister for Tourism.  
Is he able to tell this House what the cost of that importation currently amounts to? Is that information which he has available to him and he is willing to provide to this House? I do not know what the measurement would be. Would it be by cubic metre or any other relevant measurement?

130 **Minister for Tourism, Commercial Affairs, Public Transport and the Port (Hon. N F Costa):** Mr Speaker, I can actually tell him the price, including the supply, the delivery and spreading of the sand on the beach, which amounts to £1,490,500. That includes the supply, the delivery and the spreading of the sand at the beach.

**Hon. D J Bossino:** So, in other words, just to be absolutely clear, all told that will be the price tag once we have a fully replenished Sandy Bay. Is that correct?

135 **Hon. N F Costa:** That is the information that has been provided to me, Mr Speaker, by the relevant Department that is carrying out the supply... well, the contractor for the supply, delivery and spreading of the sand. So that is my information, yes.

140 **Hon. D J Bossino:** Mr Speaker, who is actually carrying out the importation. Is it a Gibraltar company? Is it a company from outside Gibraltar? Can he give that information? But I do appreciate that it may not necessarily directly arise from the question on the Order Paper.

145 **Hon. N F Costa:** Mr Speaker, unless I am not recalling correctly, I believe that I was asked about the award of the contract in the previous session in Parliament when I answered, that the Sandy Bay contract for regeneration of the beach was awarded following a public tender concluded in March of 2014. The tender document specified the technical specifications for the sand and following a review of the tenders received, the contract was awarded to Van Oord on the basis that they had submitted the most economically advantageous and compliant bid. So it is being conducted by Van Oord.

150 **Hon. D J Bossino:** Mr Speaker, is Van Oord the company which is... I do not know exactly how these things work, is Van Oord the company which is doing the importation? Does it then subcontract to another company who then does the importation. Does he have that information? In fact it probably does arise from the question in the Order Paper, but if he does not have the answer in this House then maybe I can ask it again next month or he can provide it to me later.

155 **Hon. N F Costa:** Yes, Mr Speaker, I do not have exactly the answer as to whether Van Oord has imported and has subcontracted another company to spread the sand on the beach, but I can tell him that the contract was awarded to Van Oord. Whether Van Oord has then subcontracted to another company to spread the sand, I do not have the answer. He can either write to me and I will give him the answer or he can ask me at the next session and I will be happy to give him the information then.

160 **Hon. D J Bossino:** Mr Speaker, I assume he does not have the answer to the question which I actually posed. It was not necessarily to do with the spreading of the sand, but actually the importation of the sand. Does he have an answer to that question which is the one I posed? He is checking is he?

165 **Hon. N F Costa:** Mr Speaker, from the information that I have before me, I am quite certain that it would have to be Van Oord on the basis that the tender was awarded to that particular company.

**Mr Speaker:** Next question.

**TOURISM, COMMERCIAL AFFAIRS, PUBLIC TRANSPORT AND THE PORT**

**Q348/2014**

**Airlines operating from Gibraltar –  
Subsidies and concessions received**

170 **Substitute Clerk:** Question 348, the Hon. D J Bossino.

**Hon. D J Bossino:** Can the Minister for Tourism advise whether any airlines operating from Gibraltar are receiving any subsidy or concessions from the Government or any Government-owned company?

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

**Minister for Tourism, Commercial Affairs, Public Transport and the Port (Hon. N F Costa):**  
180 Mr Speaker, this question is very similar to the question that the hon. Gentleman asked me, namely Question 826/2012. As I informed him at the time, all commercial discussions are commercial in confidence as part of the Government's continuing drive to increase air connectivity.

I am happy to advise the hon. Gentleman, however, that the Government continues to operate the incentives and discount scheme implemented in 2010 and that the GTB discusses marketing collaborations with its airline partners.

185 As I advised the hon. Gentleman in the question that I just mentioned, I will not be drawn to publically announce across the floor of the House whether any airline enjoys an incentive scheme, subsidy or concession from the Government, as to do so would undermine any negotiating advantage of Her Majesty's Government of Gibraltar in any discussions.

**Q349/2014**

**Bunkering services in Gibraltar –  
Measures taken by Government after Spanish actions**

190 **Hon. D J Bossino:** Can the Minister for the Port state what measures, if any, the Government has taken in connection with the Spanish actions relating to bunkering services being conducted in Gibraltar?

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

195 **Minister for Tourism, Commercial Affairs, Public Transport and the Port (Hon. N F Costa):**  
Mr Speaker, in the first place I do not accept the premise of the question.

200 As far as Her Majesty's Government of Gibraltar is aware, there have been no Spanish actions relating to bunkering services in Gibraltar. Bunkering services continue in Gibraltar as they have always done. Notwithstanding and irrespective of any reports in the Spanish media, the Gibraltar Port Authority and I have agreed a series of measures to stimulate all economic areas of port activity. These new policies will be announced during the course of the Budget debate.

205 **Hon. D J Bossino:** Mr Speaker, I welcome the answer that he has given. Obviously I base myself on what I hear in the press. I am not privy to any other information, and certainly on the basis of various sources and various press sources that one reads, there is certainly a threat of action.

Now, he says that, and I quote, 'no Spanish actions' have been taken. Have there not been incidents of filming by Spanish authorities of our bunkering operations in Gibraltar territorial waters? Is he able to confirm or deny that?

210 **Hon. N F Costa:** Mr Speaker, if I may be helpful to the hon. Gentleman, the question asks the measures that the Government has taken in connection with Spanish actions relating to bunkering. I can tell this House confidently that the Spanish Authorities have *not* taken any actions in relation to bunkering and I am sure that the House would be delighted to know, that bunkering operations in Gibraltar continue as fruitfully as they have always done.

215 There have been instances where foreign vessels have taken pictures, not just of certain operations in the Port, but also in relation to the groyne in Sandy Bay, but that does mean that any actions have been taken in relation to that project either, simply that we are aware of reports of photographs or filming taking place.

220 **Hon. D J Bossino:** Mr Speaker, there was a report in *The Telegraph* I think it was, albeit back in  
August when we were suffering from the brunt of the troubles, where it was reported that apparently Spain  
had actually approved legislation. I have not checked that myself, but actually approved legislation banning  
permanently anchored fuel storage tankers from operating in its protected waters, and included in their  
view, the disputed waters around the Rock in the framework of the legislation. Would the Minister not  
225 consider that to be specific Spanish action, which ought to be addressed by the Government in terms of the  
immediate and long-term future economic viability of this particular activity?

**Hon. N F Costa:** Mr Speaker, as the hon. Gentleman will know, the position of Her Majesty's  
Government, and I dare say of the Opposition, the Government's position clearly is that no legislative  
action could possibly in any way affect the legal jurisdiction, powers, controlled sovereignty and  
230 jurisdiction of British sovereignty in Gibraltar waters. So as far as we are concerned the Spanish  
Government may legislate at their leisure and at their whim, but certainly it would not in any way impact on  
Port operations or indeed any other sphere of life in Gibraltar.

235 **Hon. D A Feetham:** Mr Speaker, in his first reply the hon. Gentleman said bunkering activities  
continue as they have always done, and then in a second he said bunkering activities continue as fruitfully  
as they have always done. Can the Minister confirm that he has not noticed any statistical downturn in  
bunkering activities in the Port of Gibraltar?

240 **Hon. N F Costa:** Mr Speaker, unfortunately the downturn started under their own administration in  
2009. Between last year and this year there has been a very *negligible* decrease.

**Mr Speaker:** Next question.

**Q350/2014**  
**Bus fleet replacement –**  
**Update**

**Substitute Clerk:** Question 350, the Hon. S M Figueras.

245 **Hon. S M Figueras:** Mr Speaker, can the Minister for Transport provide an update on the replacement  
of the bus fleet?

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

**Minister for Tourism, Commercial Affairs, Public Transport and the Port (Hon. N F Costa):**  
Mr Speaker, Government is currently in the award stage of the tender for the replacement of the bus fleet.

255 **Hon. S M Figueras:** Mr Speaker, I recall in the House, at either the last session or the one before where  
we last dealt with this matter, that there were some issues relating to the technology that was going to be  
used in the buses.

I was wondering whether perhaps the Minister would be able to confirm whether doubts in that regard  
have now been resolved and what the time frame for delivery of the buses, or rather for award of the  
contract in the first place and then delivery of the buses is as at today's date.  
260

**Hon. N F Costa:** Mr Speaker, let me tell the House that I will advise the Gentleman what I understand  
the process to be because this is dealt with by the Procurement Office.

As I understand it, once the Government has decided on the award of a contract, a letter has to be sent to  
the successful company and the unsuccessful company. I am then advised that there follows a mandatory  
265 Alcatel period known because of the Alcatel case. It is a standing period, which is a 10-calendar-day period  
following notification whereby the unsuccessful tenderer has the chance to submit as to why they thought  
that the tender should have been awarded to them, so until then there will not be an actual allocation. We  
are currently at this standstill or Alcatel period.

270 **Hon. S M Figueras:** Of 10 days?

**Hon. N F Costa:** Yes, 10 days.



275 **Hon. S M Figueras:** I am grateful to the Minister for the clarification in that respect. Is he – notwithstanding that answer – in a position to say, once the contract is agreed with the successful tenderer, when the buses can be expected to begin to be delivered?

280 **Hon. N F Costa:** Mr Speaker, as the hon. Gentleman will remember from the last time he asked me questions on this subject matter, I told him that there were two companies that had proceeded to the final stage. So there are two companies. Those two companies will obviously know when they have told us that they will be able to deliver those buses. If I were to give the hon. Gentleman the time frame, they will know who has been successful and who has not. So I cannot at this stage say anything else.

285 **Hon. S M Figueras:** Well, you see, Mr Speaker, I had understood his previous answer to mean that both successful and unsuccessful tenderers would have already been notified in any event. (*Interjection*)

**Hon. N F Costa:** Sorry, as I told the hon. Gentleman, I could tell him what the process was, but because it is dealt with by the Procurement Office, I cannot tell him whether the letters have gone out. It is not done by me.

290 **Hon. S M Figueras:** So being at this stage of the process, Mr Speaker, it is not unreasonable to expect that at the next session there should be some more certainty in that regard.

**Hon. N F Costa:** Absolutely Mr Speaker.

**Q351/2014**  
**Peter Sardeña case –**  
**Conclusion of matter**

295 **Substitute Clerk:** Question 351, the Hon. S M Figueras.

**Hon. S M Figueras:** Mr Speaker, can the Minister for Transport say whether the Peter Sardeña matter has now concluded?

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

305 **Minister for Tourism, Commercial Affairs, Public Transport and the Port (Hon. N F Costa):** Mr Speaker, as the hon. Gentleman knows, the hearing of the claim has concluded and a decision from the Industrial Tribunal is awaited. So we are in the same position as we were when the last question was asked.

310 **Hon. D J Bossino:** Just to recollect where we were. Presumably the judgment, exclusively in relation to quantum, I think that that was the position as I understood it, but my memory is somewhat hazy on this one because it has been sometime since I dealt with it. But I thought that in relation to the substantive liability issues there had been a concession by the Government, and if you recall... the Minister will recall, Mr Speaker, that was the subject of much debate and time spent on this in relation to that matter in this House.

As I recall, all that is pending at this stage is a decision by the Chairman of the Industrial Tribunal in relation to quantum.

315 **Hon. N F Costa:** Mr Speaker, the hon. Gentleman would be right in saying that there has been across the floor of this House, I would say, sufficient discussion on this matter. In fact in respect of this particular question, there was Question 237/2012, where we go into eight pages of *Hansard* where we discussed whether the judgment is in respect of anything other than quantum or just quantum, and us saying on this side of the House the matter is *sub judice* and when the judgment is handed down, it will be handed down.

320 I will repeat that in less than seven pages to the hon. Gentleman, given that the matter is pending a judicial decision, I will limit myself to just making that comment.

**Mr Speaker:** Next question.

**Q352/2014**  
**GibiBikes –**  
**Update on progress**

**Substitute Clerk:** Question 352, the Hon. S M Figueras.

325 **Hon. S M Figueras:** Yes, Mr Speaker.

Can the Minister for Transport say whether there has been any substantial progress in the GibiBikes matter?

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

**Minister for Tourism, Commercial Affairs, Public Transport and the Port (Hon. N F Costa):** Mr Speaker, my answer remains the same as the answer to Question 126/2014.

335 Her Majesty's Government of Gibraltar has entered into litigation with a contractor and it will make a public announcement on the conclusion of these legal proceedings, including any appeals by either party.

**Mr Speaker:** Next question.

**PROCEDURAL**

**Substitute Clerk:** Question 353/2014 is going to be answered by Minister Balban on behalf of Minister Linares and will be taken later on today.

340 Questions 354 to 359/2014 will be answered by the Chief Minister on behalf of Minister Linares. This will be done this afternoon.

**HEALTH AND THE ENVIRONMENT**

**Q360/2014**  
**Ministry of the Environment –**  
**Companies providing services; details of changes**

**Substitute Clerk:** Question 360, the Hon. S M Figueras on behalf of Mr Netto. Yes?

345 **Hon. S M Figueras:** Mr Speaker, can the Minister for the Environment please say if there has been any variation to any of the companies providing services to the Ministry of the Environment through contract since 2012; and, if so, provide full details to Parliament?

**Substitute Clerk:** Answer, the Hon. the Minister for Health and the Environment.

350 **Minister for Health and the Environment (Dr J E Cortes):** Mr Speaker, it is not up to the Government to assess variations to companies as long as the contract is adhered to, which is the main concern of the Department of the Environment.

355 **Hon. S M Figueras:** Yes, Mr Speaker, I note the Hon. Minister's reply to the question. I suspect that it is being taken on the meaning of the language of the question, which I again suspect has been drafted perhaps in an unfortunate manner, given that the Question certainly to me, and I am asking it on behalf of my Hon. Friend Mr Netto, that the question was intended to elucidate information about variations to the contracts themselves, rather than the companies.

360 I will grant that on the language of the question itself, the Hon. Minister may not have noticed, but if the Minister is in a position to provide any details in relation to any variations that he is aware of, I would be very grateful, but again concede that he may not have had appropriate notice in this instance.

365 **Hon. Dr J E Cortes:** Mr Speaker, I think I would inevitably give an incomplete answer as the question was phrased... it seemed that it was asking as to a variation in the composition of the company, which is the answer that I have given. If there has been any changes, variations in the companies or in the contracts, I

have knowledge of some, but it would be an incomplete answer and I would hesitate. What I can say is that those companies that have had contracts, still valid and in force in December 2011, still retain those contracts.

370 There are some contracts which had expired and were being run either by the same companies or in some other way out of contract and we are in the process of regularising that. But I would not like to give any more details, because I am likely to get something wrong and I would rather have notice of a question for a future meeting.

**Mr Speaker:** Next Question.

**Q361/2014**  
**Fishing Report –**  
**Implementation of recommendations**

375 **Mr Speaker:** Question 361, the Hon. Selwyn Figueras on behalf of Mr Netto.

**Substitute Clerk:** Question 361, the Hon. Mrs I M Ellul-Hammond on behalf of – (*Interjection*) No? Question 361, the Hon. Mrs I M Ellul-Hammond on behalf of the Hon. J J Netto.

380 **Hon. Mrs I M Ellul-Hammond:** Mr Speaker, further to Written Question 137/2013, can the Minister for the Environment state which recommendations of the Fishing Report have been implemented in the last 12 months, which ones will be implemented over the next 12 months and which recommendation/s the Government feels it will not be able to implement and why?

385 **Substitute Clerk:** Answer, the Hon. the Minister for Health and the Environment.

**Minister for Health and the Environment (Hon. Dr J E Cortes):** Mr Speaker, I apologise I had assumed that Mr Figueras was continuing with Mr Netto's question.

390 **Hon. S M Figueras:** [*Inaudible*]

**Hon. Dr J E Cortes:** That is absolutely fine.

395 Mr Speaker, in addition to the recommendations implemented already, as highlighted in my response to Written Question 137/2013, the following measures have also been implemented, which are relevant to some of the recommendations made in the Fishing Report: (1) Employment of Environmental Protection Officers within the Department of the Environment who will be assisting in the implementation of the upcoming Marine Protection Regulations; (2) Review of the Artificial Reef Programme within the southern waters of Gibraltar; (3) Implementation of a tagging initiative in conjunction with local fishing clubs for sea bream species. The intention is to extend this initiative to migratory species found in the Straits of Gibraltar, such as blue fin tuna.

400 Implementation of all the recommendations is continually under consideration.

**Q362/2014**  
**Sewage treatment plant –**  
**Construction tender; details**

**Substitute Clerk:** Question 362, the Hon. Mrs I M Ellul-Hammond on behalf of the Hon. J J Netto.

405 **Hon. Mrs I M Ellul-Hammond:** Further to Question 55/2014, has the Government now awarded the tender for the sewage treatment plant and, if so, please provide details of the work to be carried, location, the company that has been awarded the contract, the timeline for operations to start and the cost associated with the works to be carried out?

**Substitute Clerk:** Answer, the Hon. the Minister for Health and the Environment.

410 **Minister for Health and the Environment (Hon. Dr J E Cortes):** Mr Speaker, the tender for sewage treatment has still not been awarded. It is currently in the assessment stage.

**Hon. S M Figueras:** Mr Speaker, can the Minister say when the award... the submission deadline for this particular tender expired?

415 **Hon. Dr J E Cortes:** No, Mr Speaker. I am involved in this matter peripherally. The main Minister would be my colleague, the Minister for Utilities, who is not here. I do not have that information I am afraid.

420 **Hon. S M Figueras:** Is the Minister able to say whether the delivery of the sewage treatment plant will be complete by the end of this term of office?

**Hon. Dr J E Cortes:** Mr Speaker, there is a possibility. If the tender were awarded quickly, then that would be a possibility.

**Q364/2014**

**Illegal enticing/feeding of macaque –  
Number of individuals fined or cautioned**

425 **Substitute Clerk:** Question 364, the Hon. Mrs I M Ellul-Hammond on behalf of the Hon. J J Netto.

**Hon. Mrs I M Ellul-Hammond:** Mr Speaker, can the Minister for the Environment say how many individuals have been fined or cautioned for the illegal enticing or feeding of macaques, contrary to the recent changes in legislation passed in Parliament, either inside or outside the Upper Rock Nature Reserve, stating where, the nationality, the amounts imposed, which entity imposed the fine and whether some cases are waiting to be heard in the courts?

430

**Substitute Clerk:** Answer, the Hon. the Minister for Health and the Environment.

435 **Minister for Health and the Environment (Hon. Dr J E Cortes):** Mr Speaker, one individual of Spanish nationality was cautioned by the Royal Gibraltar Police for the illegal feeding of macaques outside the Nature Reserve. I will add that it was in the area of Sandy Bay.

**Mr Speaker:** Next question.

**Q365/2014**

**Gibraltar Nature Reserve Management Plan –  
Update on progress**

440 **Substitute Clerk:** Question 365, the Hon. Mrs I M Ellul-Hammond on behalf of the Hon. J J Netto.

**Hon. Mrs I M Ellul-Hammond:** Mr Speaker, can the Minister for the Environment say if he is now in a position to provide Parliament with a copy of the Upper Rock Management Plan?

445 **Substitute Clerk:** Answer, the Hon. the Minister for Health and the Environment.

**Minister for Health and the Environment (Hon. Dr J E Cortes):** Mr Speaker, the Gibraltar Nature Reserve Management Plan is still being drafted and will be published as soon as possible after a period of consultation.

450 **Hon. S M Figueras:** Mr Speaker, the Hon. Minister will concede that the Plan has been being prepared for some time now. Is there any definitive timeline that he or his Department has in mind for the conclusion of the Plan and publication thereof?

455 **Hon. Dr J E Cortes:** Mr Speaker, I would have liked it to have been ready by now. It is a complex piece of work. Already some of the aspects of the recommendations that would be in the Plan are being carried out routinely, like improvements in the habitat management and other improvements that we have seen in the Upper Rock. Remember that the Upper Rock, although it is one of my Ministerial responsibilities, that I work very closely with my colleague the Hon. Minister for Tourism in this and we

460 are aware of a lot of improvements that form part of this. So I am hoping that it will be completed relatively soon. Certainly we are talking about a couple of months. I would not have thought it would be much more than that and believe you me, Mr Speaker, it will be well worth the wait.

465 **Hon. S M Figueras:** Mr Speaker, I wonder whether perhaps the Minister, who so very kindly offers information in relation to those aspects of the Plan which have already been implemented and are being implemented continually as he has referred to on a number of occasions today and on previous occasions, it strikes me, Mr Speaker, that there must be certain parts of the Plan which are either more controversial or simply more complicated and have therefore not yet been concluded.

470 Whilst that is understandable, I wonder whether the Hon. Minister would be so kind as to give the House a flavour of the issues that remain the source of such controversy and therefore make the publication of this plan something that has not yet happened.

**Hon. Dr J E Cortes:** No, Mr Speaker, because it is my intention to resolve the controversies and then the hon. Member opposite will be having nothing to worry about.

**Q366/2014**  
**Smoke Free Environment Act 2012 –**  
**Zone excluded from Act**

475 **Substitute Clerk:** Question 366, the Hon. Mrs I M Ellul-Hammond.

**Hon. Mrs I M Ellul-Hammond:** Mr Speaker, can the Minister for Health say whether he has received any application under the Smoke Free Environment Act 2012, in order to declare a zone excluded from such Act?

480 **Substitute Clerk:** Answer, the Hon. the Minister for Health and the Environment.

**Minister for Health and the Environment (Hon. Dr J E Cortes):** Mr Speaker, yes, sir.

**Q368/2014**  
**Abdominal aortic aneurism screening –**  
**Start date of programme**

**Substitute Clerk:** Question 368, the Hon. Mrs I M Ellul-Hammond.

485 **Hon. Mrs I M Ellul-Hammond:** Mr Speaker, can the Minister for Health say when the abdominal aortic aneurism screening programme will start?

**Substitute Clerk:** Answer, the Hon. the Minister for Health and the Environment.

490 **Minister for Health and the Environment (Hon. Dr J E Cortes):** Mr Speaker, work is progressing steadily and we hope to be able to launch the programme towards the end of this year.

**Q369/2014**  
**Cancer Registry –**  
**Public access**

495 **Substitute Clerk:** Question 369, the Hon. Mrs I M Ellul-Hammond.

**Hon. Mrs I M Ellul-Hammond:** Mr Speaker, can the Minister for Health say when the Cancer Registry will be made available for public access?

500 **Substitute Clerk:** Answer, the Hon. the Minister for Health and the Environment.

**Minister for Health and the Environment (Hon. Dr J E Cortes):** Mr Speaker, the Cancer Registry is a research database that is available as a data source to answer general questions of public health value that may be put to it.

505 Currently, the data is available for the period 1999 to 2009 and further years will be added as and when the data are validated and cleaned. It was never intended that the Cancer Registry would be made available for public access. Cancer Registry data is held on people, many of whom are alive, and is subject to prevention of disclosure for several legal and ethical reasons, including data protection, confidentiality and privacy.

510 While the raw data will not be publically disclosed, questions of public health value may be put to the GHA and where such questions would benefit from the analysis of the Cancer Registry data, the data will be used. Any results returned will be subject to the restriction that disclosure or identification of individuals, directly or indirectly, is not permitted.

515 **Hon. Mrs I M Ellul-Hammond:** Mr Speaker, what about making available just the numbers? Getting rid of the personal data... but the numbers of cancers per year and type of cancer?

520 **Hon. Dr J E Cortes:** Mr Speaker, if it is possible to do that in a way that it is totally... in that we can ensure total confidentiality, then that is not a problem. The problem is that in a community the size of Gibraltar and with the family links and friendship ties that we have, it is often possible, particularly in the rarer conditions, to identify individuals. But if it is possible to do this and we can be absolutely certain that individuals will not be identified, these data are not secret.

**Q370/2014**  
**Primary Care Centre –**  
**Prescribing ‘morning after’ pill**

**Substitute Clerk:** Question 370, the Hon. Mrs I M Ellul-Hammond.

525 **Hon. Mrs I M Ellul-Hammond:** Mr Speaker, can the Minister for Health advise if all the GPs and nurse practitioners at the Primary Care Centre prescribe the ‘morning after’ pill, and if not, how many opt out and why?

530 **Substitute Clerk:** Answer, the Hon. the Minister for Health and the Environment.

**Minister for Health and the Environment (Hon. Dr J E Cortes):** Mr Speaker, all GPs and Nurse Practitioners may prescribe the ‘morning after’ pill if they feel it is clinically appropriate. Prescribers may refuse to supply on grounds of religious or ethical objection as per their professional code of ethics.

535 There are clinicians that refuse to prescribe on ethical religious grounds, but those that do object will refer the patient to another GHA prescriber, therefore not negating the patient this option if deemed clinically appropriate.

540 Mr Speaker, once again, because we have a relatively small number of practitioners and there is a relatively small number of those who do not prescribe it, and in order to protect their confidentiality, I am not going to reveal the numbers across this House, but I am happy to advise the Member opposite behind the Speaker’s chair.

**Mr Speaker:** Next question.

545

**Q371/2014**  
**Family Planning Services primary care–**  
**Public Health Department initiatives**

**Substitute Clerk:** Question 371, the Hon. Mrs I M Ellul-Hammond.

550 **Hon. Mrs I M Ellul-Hammond:** Mr Speaker, can the Minister for Health explain what the GHA’s primary care Family Planning Services are at present and how far the seven Public Health Department initiatives, announced by the Minister in answer to Question 818/2013, have progressed?

**Substitute Clerk:** Answer, the Hon. the Minister for Health and the Environment.

555 **Minister for Health and the Environment (Hon. Dr J E Cortes):** Mr Speaker, the components of Family Planning Service forms part of the Well Woman Clinic which offers prescription and advice on contraception and other related subjects.

Further to the reply given to Question 818/2013, the Public Health Department has progressed the initiatives within this programme as follows:

(1) Supporting education about sex and relationships in schools and youth settings.

560 The Health Promotion Officer has met with the Child Health Team on several occasions to discuss sexual health promotion in schools. A meeting is being arranged with the Education Department to review the PSHE curriculum on sexual health and support the Education where necessary.

(2) Providing access to good quality advice for all persons on sexuality, family planning and sexually transmitted diseases.

565 People can receive a sexual health check from the infection control nurses, nurse practitioners or general practitioners. Persons needing family planning and other sexual health advice would also have the same options.

(3) Campaigning to reduce the prevalence of teenage pregnancies in our community.

570 Dr Vassallo visits the Girls Comprehensive School to present an awareness talk every year. There is no similar service for the Boys School, this is being addressed. A Sexual Health Awareness Day for the general public is under consideration. The Department is also considering the production of infomercials on the subject of teenage pregnancies.

(4) Supporting the establishment of a nurse-led sexual health clinic.

575 The nurse practitioners are interested in developing a nurse-led sexual health clinic and this requires further planning, which is in process.

(5) Encouraging access to HIV and STD testing for people who may be at risk.

580 The infection control nurses provide a drop-in service for people to come and be tested, which is usually through referrals from GPs, other health professionals or word of mouth. Sexually transmitted disease still carries a stigma and some people are reluctant to get tested in Gibraltar for fear of disclosure in a small community, and many persons prefer to get tested in Spain or UK. GPs and nurse practitioners also provide HIV testing.

(6) Improving the collection of anonymised local data to inform sexual health strategies.

585 Counts of sexually transmitted diseases according to organism detected are obtained from the St. Bernard's Hospital Laboratory every month on an anonymised basis. From 2013, anonymised records are also being kept of people using the drop-in facilities for sexual health screening.

(7) Producing relevant printed material.

590 The Department has procured a number of leaflets on sexual health issues from the UK and these are distributed within the Primary Care Centre. It has a stock of separate leaflets for boys and for girls which are distributed to schools. The Department is in the process of developing local leaflets.

**Hon. Mrs I M Ellul-Hammond:** Mr Speaker, how is the group Equality Rights helping and advising for the expansion of the GHA's Family Planning Services?

595 **Hon. Dr J E Cortes:** Mr Speaker, meetings have been held with the group, both with myself, with the Infection Control Nurses and with the Health Promotion Officer, and we are going to be meeting again shortly in order to see how we can support each other's work in this respect.

600 **Hon. Mrs I M Ellul-Hammond:** Mr Speaker, what work is this specifically? How are they involved? What are the qualifications of the group in order to advise and support a Family Planning Service?

605 **Hon. Dr J E Cortes:** Mr Speaker, the question of what are the qualifications in any group who involves itself in promoting health is a question that can be asked widely. Community groups often have people with no formal qualifications, but with a great deal of interest and experience, and the Government works together with all of them, as many of them as want to work with the Government, in developing ideas and planning strategies.

610 What the Government will ensure is that any clinical or professional work is carried out under the guidance of its own qualified and trained personnel, but certainly we are open to discussions and to be informed by the experiences and by the interests of all community groups, including the Equality Rights Group.

**Hon. Mrs I M Ellul-Hammond:** Mr Speaker, will the Gibraltar Women's Association also be consulted and be involved in part of this process?

615 **Hon. Dr J E Cortes:** Mr Speaker, the Gibraltar Women's Association is already involved in the process. I have held meetings with them and we have raised the subject. In fact the question of... the fact that there was not a service to the Boys School as well as there is to the Girls School came up during a meeting with the Committee of the Women's Association and that matter, as I have said in my answer, has been taken up. So clearly any group that has an interest in developing this sort of initiative is more than welcome and my office is open, not just to them, but as a lot of people in the community knows, virtually to anybody... well, to anybody who wants to see me about any of these things.

620 **Hon. Mrs I M Ellul-Hammond:** Mr Speaker, in relation to the fourth initiative to be led by the Public Health Department, supporting the establishment of a nurse-led sexual health clinic, could the Minister give a little bit more information about this? Would the nurses be taking over the role from the Well Woman Clinic and the GPs?

625 **Hon. Dr J E Cortes:** Mr Speaker, it is too early in the day to have any indication, but certainly the role of the nurse practitioners and GPs in this sort of initiative would almost always – sorry, I did not mean almost. I mean always be paramount.

630 There are a number of nurse-led initiatives which are very successful in the Primary Care Centre, the dermatology initiative being one which has very recently been in the news, both for the success of the nurse who leads it, Linda Castro, in getting an award in the UK and also the initiative of a walk-in cancer screening, which was carried out for the first time a few weeks ago, and that is a nurse-led clinic that involves GPs and involves visiting consultants. So there need be no fear that a nurse-led clinic is going to be diluted in any way. On the contrary, this in many ways is the future for healthcare and the professionalism, dedication and expertise of nurses is something that we cannot understate.

635

**Q372/2014**  
**NaProTechnology treatment –**  
**Patient referrals**

**Substitute Clerk:** Question 372, the Hon. Mrs I M Ellul-Hammond.

640 **Hon. Mrs I M Ellul-Hammond:** Mr Speaker, can the Minister for Health advise who the GHA doctors are that can refer patients for the privately provided NaProTechnology treatment as an alternative to IVF treatment?

**Substitute Clerk:** Answer, the Hon. the Minister for Health and the Environment.

645 **Minister for Health and the Environment (Hon. Dr J E Cortes):** Mr Speaker, access to this technology is currently under discussion.

650 **Hon. Mrs I M Ellul-Hammond:** Mr Speaker, is the Hon. Minister saying that at the moment there is no access to this treatment or there has been access up until now and it has been stopped and is being reviewed?

655 **Hon. Dr J E Cortes;** Mr Speaker, what I am saying is that the use of this technology is currently under discussion with the entity that is offering to provide it, but that does not mean that if there were any patient who it was felt was indicated to have this technology, that this could not be dealt with in advance of an agreement being reached with the provider. This happens in a lot of situations.

What I am saying is that there is no formal arrangement at the moment, nor have I detected a demand for it either.

660 **Hon. Mrs I M Ellul-Hammond:** Mr Speaker, I was under the impression that this service was on offer by the GHA. Can he explain why it is under discussion? Is this because of lack of evidence?

**Hon. Dr J E Cortes:** No, Mr Speaker. The GHA will provide services. Some of these services are under contract – for example, IVF is under contract following a tender process. Other services are dealt with on an *ad hoc* basis. There may be things that we do not regularly do at the moment.

665 As I said before, if this was clinically indicated it would be made available, but we still do not have a service level agreement or a contract with a provider and we are discussing that at the moment.



**Q373/2014**  
**A&E reception –**  
**24-hour manning service**

**Substitute Clerk:** Question 373, the Hon. Mrs I M Ellul-Hammond.

670 **Hon. Mrs I M Ellul-Hammond:** Mr Speaker, as per the Government Press Release 173/2014, can the Minister for Health say when the 24-hour manning of the A&E reception will start and how that will improve the patient experience of A&E?

**Substitute Clerk:** Answer, the Hon. the Minister for Health and the Environment.

675 **Minister for Health and the Environment (Hon. Dr J E Cortes):** Mr Speaker, the A&E reception staff will be recruited shortly. This will allow a point of contact for patients through the night and at weekends and will also mean that these duties do not have to be carried out by nurses, hence allowing these more time to attend to patients.

**Q374/2014**  
**Primary Care Centre –**  
**Redesign details; extra services offered**

**Substitute Clerk:** Question 374, the Hon. Mrs I M Ellul-Hammond.

680 **Hon. Mrs I M Ellul-Hammond:** Mr Speaker, as per the Government Press Release 173/2014, can the Minister for Health say how the Primary Care Centre will be redesigned and what extra services will be offered in the extra clinic space?

685 **Substitute Clerk:** Answer, the Hon. the Minister for Health and the Environment.

**Minister for Health and the Environment (Hon. Dr J E Cortes):** Mr Speaker, the alterations which have been carried out at present in the PCC have been aimed primarily at offering more clinic space to the professionals working within it and also to create the possibility of improving services.

690 The alterations have consisted of: redesigned office space to provide conditions for administrative staff; four clinics and a waiting area, which can be used by both GPs and nursing staff; one unit which will be used to consolidate all the various professionals working in dermatology into one cohesive unit; a new smaller boardroom; and as part of the exercise storage units are being created away from the main clinical areas, the long-term aim being to convert stores in existence in these main areas into more clinical space.

695 These alterations will immediately provide a better clinical environment for service users and staff alike. It will create enough clinics to allow professionals the ability to arrange clinics more efficiently. It will avoid incidences of double booking of clinics, as can happen. It will create the infrastructure necessary for expansion of services and reinforces the creation of the Dermatology Unit as a service.

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**Q375/2014**  
**Repeat prescriptions –**  
**Improvements to system**

**Substitute Clerk:** Question 375, the Hon. Mrs I M Ellul-Hammond.

705 **Hon. Mrs I M Ellul-Hammond:** Mr Speaker, as per the Government Press Release 173/2014, can the Minister for Health say what the further improvements to the repeat prescription system will be?

**Substitute Clerk:** Answer, the Hon. the Minister for Health and the Environment.

710 **Minister for Health and the Environment (Hon. Dr J E Cortes):** Mr Speaker, further information has been published and disseminated to service users and stakeholders to assist with informing patients of the current procedures in place to obtain chronic repeatable medication.

In addition, we are currently in the final stages prior to launching a repeat prescription pilot scheme, which we anticipate will provide benefits regarding medicines management.

715 **Hon. Mrs I M Ellul-Hammond:** Mr Speaker, can the Minister give us a little more information about the pilot scheme?

720 **Hon. Dr J E Cortes:** Mr Speaker, I can give a little bit more information, but I am not leading on this. It will allow the possibility, in certain situations where the doctor does not need to see the patient, for the prescription being provided without the patient needing to see the doctor. We are working out whether that should be done manually or whether it can be done electronically and that is where we are at the moment.

**Hon. Mrs I M Ellul-Hammond:** Mr Speaker that is very welcome. Can the Hon. Minister say who is leading on this?

725 **Hon. Dr J E Cortes:** The team at the Primary Care Centre, which will involve the GPs, nurse prescribers and the Health Centre administration.

730 **Hon. Mrs I M Ellul-Hammond:** Mr Speaker, can the Hon. Minister say when the pilot scheme will be launched?

**Hon. Dr J E Cortes:** No, Mr Speaker, I would have to ask the people involved. I am told that they are very close to it, but I do not have a starting date.

**Q376/2014**  
**Primary Care Centre –**  
**Chronic Disease Management Care**

**Substitute Clerk:** Question 376, the Hon. Mrs I M Ellul-Hammond.

735 **Hon. Mrs I M Ellul-Hammond:** Mr Speaker, can the Minister for Health say what the plan for Chronic Disease Management Care is at the Primary Care Centre?

**Substitute Clerk:** Answer, the Hon. the Minister for Health and the Environment.

740 **Minister for Health and the Environment (Hon. Dr J E Cortes):** Mr Speaker, chronic disease management represents a substantial percentage of the current GP workload. Some general practitioners also incorporate areas of special interest, such as diabetes, dermatology and elderology.

745 The medical element is further supported by the multi-disciplinary teams of specialist nurses and allied health professionals, who work in partnership with patients and relatives through a process of case management, regular reviews and evaluation, providing patients with support, information, education, self-management and lifestyle changes. Evidence based guidelines and prodigals provide the standards for optimal care.

The list below – which I am about to read – highlights some of the services currently providing chronic disease management.

750 Diabetes Service: case management and annual reviews, DAFNE programmes for Type1 diabetes and Desmond self-management programme for ongoing and newly diagnosed diabetes.

Cardiac Rehabilitation: new patient and self-help programmes.

Hypertension: halter monitoring and nurse-led assessment/review clinics.

Mental Welfare Officers: case management of GP referred patients.

755 Respiratory: nurse-led for primary care, offering spirometry, management of COPD/COAD, paediatric/adult asthma clinics, smoking cessation service.

Dermatology: nurse-led light therapy and case management and review of chronic skin conditions.

Chronic ulcers and corresponding lymphedema management: nurse-led case management and reviews.

760 **Hon. Mrs I M Ellul-Hammond:** Mr Speaker is there a chronic disease register?

**Hon. Dr J E Cortes:** Mr Speaker, a chronic disease register, as such, with that title, I am not aware of, but certainly we do have data on chronic diseases. All these clinics will have their own database.

765 As for a chronic disease register labelled as such, I would need notice of the question to see in what form such information is kept.

770 **Hon. Mrs I M Ellul-Hammond:** Mr Speaker, will the Hon. Minister be able to say if there is a system in place to manage each chronic diseased patient annually to ensure that they receive monitoring and treatments, prescription monitoring and so on for each different chronic disease?

775 **Hon. Dr J E Cortes:** Mr Speaker, it depends on the disease – that is I am not aware of all the information. I can say for example that the diabetes service, which is very, very effectively run, we are shortly going to be introducing an annual review by a consultant for Type 1, which is something that is done in the UK and other countries and has never been done in Gibraltar before.

Certainly for hypertension, the GPs will normally want to see a patient every six months or every 12 months. I would have to... for such specific detail as to the frequency in which each patient is seen in each of these chronic disease management protocols, I would need notice in order to be able to give factual details of every single case.

780 **Hon. Mrs I M Ellul-Hammond:** Again, Mr Speaker, is the Minister aware of any incentivisation or how GPs are encouraged to manage chronic disease and other perhaps more time consuming or difficult patients?

785 **Hon. Dr J E Cortes:** Mr Speaker, again that is pretty specific. I would have thought that our GPs would be... well, I know for a fact that they are dedicated and responsible enough to manage their patients in whichever way their clinical condition requires, so I am confident that this is happening.

790 **Hon. Mrs I M Ellul-Hammond:** And finally Mr Speaker, the Hon. Minister mentioned the new system that is going to be put in place for Type 1 diabetes, where patients will be seen or reviewed by a consultant annually. Will this system be introduced or is it being considered for other chronic disease management – annual reviews with a consultant locally?

795 **Dr J E Cortes:** It depends on the condition. There are some conditions which do not require a consultant to carry out an annual review, conditions in which a GP perhaps with specialist interests and knowledge of a particular condition or nurse practitioners can deal with the routine and they would only be referred to a consultant for when it is particularly indicated.

It so happens that for Type 1 diabetes it is recommended. It is part of NICE guidelines in the UK and this is a programme that we are about to introduce using our existing consultants.

#### Q377/2014

#### Gibraltar Health Authority – New contract with Xanit Hospital; details

800 **Substitute Clerk:** Question 377, the Hon. Mrs I M Ellul-Hammond.

**Hon. Mrs I M Ellul-Hammond:** Mr Speaker, can the Minister for Health explain what the arrangements, fees, terms and conditions are in the new contract the GHA has with the private hospital Xanit to provide healthcare services for GHA patients and provide a copy of such contract to this House?

805 **Substitute Clerk:** Answer, the Hon. the Minister for Health and the Environment.

810 **Minister for Health and the Environment (Hon. Dr J E Cortes):** Mr Speaker, Xanit Hospital is used by the GHA as a tertiary referral centre. The Authority refers patients to Xanit in the same way that it refers patients to other centres in the UK and Spain. The nature of the referrals depends on the judgment of the referring clinician or the preference of the patient.

815 The Authority entered into a contractual arrangement with Xanit last year, which in the main catered for the pattern of referrals that had been in existence over a number of years during which the patients were referred without a formal contract being in place. As a result of the formalised arrangements, the Authority was able to obtain a reduction in costs for most of these services – for example, we have been able to lockdown the prices of certain procedures regardless of how long the patient requires admission at the hospital. A number of specialities and procedures have since been added to the list on the recommendation of clinicians.

820 The Government does not consider that it is appropriate to disclose details of the commercial arrangements that the GHA has entered into with Xanit Hospital.

**Hon. Mrs I M Ellul-Hammond:** Mr Speaker, can the Hon. Minister say do we pay then a monthly fixed rate or is it based on the number of patients we send to Xanit? Is it based on the treatment type or the length of time the GHA patients use the services?

825 **Hon. Dr J E Cortes:** Mr Speaker, there is no fixed rate. We pay for the services provided according to a schedule of prices that are agreed and fixed. As I say, Mr Speaker, when I took over the role of Minister for Health and Chairmanship of the GHA, patients would be referred on an *ad hoc* basis and the bills would come in without any fixed price.

830 The contract has a set fee, agreed and comparable to fees in other hospitals, and in some circumstances has actually, as I have said before, locked the prices for certain procedures, which means you cannot always know how long a person has to be in hospital. In the contract, we have been able to arrange that for certain procedures, no matter how long the patient stays, the price is the same, and therefore we have obtained, I believe, a reduction in the cost per procedure and also certain guarantees. We pay as we use the service.

835 **Hon. Mrs I M Ellul-Hammond:** Mr Speaker, if I ask the Hon. Minister for the cost over the last financial year for the use of Xanit and the list of the fixed prices, I know he may not have that information with him today, if I write to him or ask him next month, will he be able to provide me with that information?

840 **Hon. Dr J E Cortes:** Mr Speaker, I believe the hon. Member has asked me the Xanit question. In fact the hon. Member has asked me a host of Written Questions. I am obviously very popular. I think I get more questions than anybody else. (**A Member:** Hear, hear.) Either I have more. I do not know. Maybe it is just that I do a lot. (*Laughter*)

845 But some of the questions ask for some details down to a breakdown of costs in the GHA per month, per department, which makes me wonder why an earth these questions are asked, because I cannot see any benefit in the Opposition knowing how many bandages, how much money is spent on bandages in a month in any particular department, and it is a serious concern for me, Mr Speaker, because there are public servants who are spending a lot of time answering questions. By all means, the Opposition has every right to ask questions.

850 But questions I think that will be of benefit to them in their contribution to a better Gibraltar. But asking such kind of detail, which takes public servants many hours and many days to answer, for no apparent effect in the end, to me that time would be better spent in doing other things. But anyway that is just an opinion and I take the opportunity.

855 Now I have forgotten what the hon. Member has asked me, so she had better ask me again.

**Hon. D A Feetham:** Mr Speaker, she has asked the question that I have asked her to ask, the first part of the question, which cannot possibly be characterised in the way that the hon. Gentleman has characterised it, which is how much has been paid to Xanit over the last financial year. The Opposition is perfectly entitled to that information.

860 **Hon. Dr J E Cortes:** Oh, absolutely, Mr Speaker, and that information has been given in the Written Answer that the hon. Member is going to get.

865 What I am alluding to is other questions like how much sick leave over three days per grade for the whole of ... the monthly figures of cost for the Department. The monthly cost per hospital per condition in the UK. These are things that... I mean monthly figures really have not much value, because if you do not get all the bills one month, you might get them the next month and therefore these things are not relevant. I think an overview of a year comparing year with year is fine, but getting down to the nitty-gritty of these details and asking, for example, on the question of sick leave, in which you have a Human Resources Department spending three or four days there and not being able to perhaps process vacancies. Then I get a question as to why I have got so many vacancies.

870 Mr Speaker, I think the Opposition has to really take stock of how they are asking questions or the manner of questions they are asking and of the negative effect they can have on the public service for no benefit for Gibraltar, Mr Speaker. But on the question of Xanit, that information will be given on an annual basis.

875 **Hon. D A Feetham:** Mr Speaker, obviously he was not a Member of the Opposition at the time when we were answering a battery of statistical questions on a regular basis. But look, we will be the judge, as

Her Majesty's Opposition of Gibraltar, of what is relevant, what is not relevant, and what is good for Gibraltar, what is not good for Gibraltar. His role is to answer questions. *(Interjections)*

880 But, Mr Speaker, the hon. Gentleman said that in relation to Xanit, originally there had been an *ad hoc* arrangement, which has now been consolidated into an overall agreement. I note that in the past there have been referrals to, for example, other institutes in Spain, such as the very well-known excellent institute in Navarra, the Pamplona Institute, Cancer Research and Treatment Institute, and I wonder whether the Government is also thinking of conducting that same exercise in relation to that Institute.

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**Hon. Dr J E Cortes:** Mr Speaker, he may be the judge, but I think his judgement is flawed.

Certainly I have not had the experience of being in Opposition. I hope I never will, but certainly I doubt whether questions like how many partridge chicks have been born on the Upper Rock, which I have got again as a Written Question this time round, when I have explained that it is impossible to tell to the hon. –

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**Mr Speaker:** May I intervene?

This question of the sort of information which the Opposition asks of the Government is nothing new; it is something that has been happening over the years. There is only one Member here, apart from myself, and that is the Hon. Mr Bossano, who will recall that during a Budget session in Committee, a particular Member of the Opposition persisted in asking for every single item of overtime in all the subheads of the Public Works Department. We used to spend a week, *a week* in Committee during the Budget. Now, that does not happen any longer. *(Interjections)* No, it was not Mr Bossano. *(Laughter)* No, it was not. Mr Bossano took a much broader view of matters. It was not Mr Bossano. All it succeeded in doing was tying down the Ministers of the Government for a whole week here. So that is nothing new and I am sure that all Members when they are in Government feel that an excessive amount of time is perhaps being devoted in having to provide answers to questions, but it cuts both ways.

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**Hon. Dr J E Cortes:** Certainly, Mr Speaker, and I apologise if I have gone on too much on the subject.

I have no problem at all in – *(Interjections)* I am going to Pamplona in a minute – supporting public servants when they do this work, but I do question whether there is any point in some of the questions that are asked. But anyway, that is another...

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Pamplona. Let us go to Pamplona. Mr Speaker we do refer patients to the Universidad de Navarra facilities in Pamplona and we are currently under discussion with them looking at possibilities of firming up the relationship in various different ways. We are in discussions and we will see what comes of them.

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**Hon. Mrs I M Ellul-Hammond:** Mr Speaker, if I may just end with one final supplementary?

Going back to the information on Xanit, what I have not requested and will be requesting is a schedule of the fixed prices for the different treatments.

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**Hon. Dr J E Cortes:** Mr Speaker, I have no problem in giving that to the Member opposite. I would ask her to keep those confidential because obviously if we are discussing with other hospitals – and we are, not just with Pamplona... we are open to discussions with other hospitals – that would be commercially sensitive.

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**Mr Speaker:** Next question.

#### Q378/2014

#### New GHA management structure – Xanit's role in negotiation and establishment

**Substitute Clerk:** Question 378, the Hon. Mrs I M Ellul-Hammond.

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**Hon. Mrs I M Ellul-Hammond:** Mr Speaker, can the Minister for Health say what role, if any, the Spanish private hospital Xanit has played in the negotiation and establishment of a new GHA management structure or in the consultant's contract?

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**Substitute Clerk:** Answer, the Hon. the Minister for Health and the Environment.

**Minister for Health and the Environment (Hon. Dr J E Cortes):** Mr Speaker, this is probably one of the most bizarre questions I have had to answer because I just cannot see... anyway, Mr Speaker, none, sir.

935 **Hon. Mrs I M Ellul-Hammond:** Mr Speaker, can the Minister confirm that no GHA meetings or negotiations for new GHA services have taken place at Xanit?

**Hon. Dr J E Cortes:** Oh, Mr Speaker, now I see.

940 Mr Speaker, one meeting was held there because – *(Interjections)* No, let me explain. *(Interjections)* No, this says – *(Interjections)* What role... No, Mr Speaker, this is mischievous and totally unjustified. The question clearly says *(Interjections)* what role has the Spanish private hospital played in the negotiation? *(Interjections)* That is – *(Interjections)* No role.

Mr Speaker, the meeting was held in Xanit because one of the members of the negotiating team was a patient in Xanit and in order to allow the negotiations not to be delayed, the meeting was held there.

945 Mr Speaker, I think the Members opposite should think about what they are asking and get a little bit information before they make allegations. *(Interjections)*

**Substitute Clerk:** Question 3...

950 **Hon. Mrs I M Ellul-Hammond:** Mr Speaker, can the Minister confirm whether or not the acting Chief Executive, who is now a consultant, Mr John Langham, has been operating out of Xanit as part of his remit for the establishment of a new GHA management structure or if he has held meetings there on behalf of the GHA?

955 **Hon. Dr J E Cortes:** No, Mr Speaker.

I repeat, *one* of the Members of the team, and I will not mention the name here, was a patient there, a long term patient; therefore, in order not to delay the negotiations, a meeting was held there so that he could attend, and that is it. Absolutely no relationship at all to Xanit as an organisation, other than the use of a room.

#### Q379/2014

#### Transmissible blood born viruses – Screening for GHA staff; vaccination programme

960 **Substitute Clerk:** Question 379, the Hon. Mrs I M Ellul-Hammond.

**Hon. Mrs I M Ellul-Hammond:** Mr Speaker, can the Minister for Health explain how GHA staff are screened for transmissible blood born viruses and what the vaccination programme is?

965 **Substitute Clerk:** Answer, the Hon. the Minister for Health and the Environment.

**Minister for Health and the Environment (Hon. Dr J E Cortes):** Mr Speaker, staff members are tested for exposure to transmissible blood born viruses in the event of a needle stick injury. There is also a programme to screen all existing GHA staff for hepatitis B immunity and offer them a vaccination against hepatitis B, if indicated.

970 This is part of a wider programme for the public service, which was long overdue and which the Government is proud to have introduced.

975 **Hon. Mrs I M Ellul-Hammond:** Yes, Mr Speaker, I understand that the hepatitis B vaccination programme for emergency and public service staff, including the GHA, was introduced. It was reported in the media. But what about the actual screening for all new entrants into the GHA, into the emergency services, a screening programme for hepatitis B and other viruses, such as HIV, hepatitis C and so on, where they are automatically screened before starting work within an emergency setting or health environment?

980 **Hon. Dr J E Cortes:** Mr Speaker, this has never been carried out in Gibraltar. I would need the advice of the Director of Public Health if he thought that was indicated.

**TRAFFIC, HOUSING AND TECHNICAL SERVICES**

**Q380-Q386/2014**

**Charles Bruzon House –  
Construction work; concerns raised**

985 **Substitute Clerk:** Question 380, the Hon. S M Figueras.

**Hon. S M Figueras:** Mr Speaker, can the Government say whether any concerns have been raised by residents of neighbouring estates in relation to the construction of the Charles Bruzon House?

990 **Substitute Clerk:** Answer the Hon. the Minister for Traffic, Housing and Technical Services.

**Minister for Traffic, Housing and Technical Services (Hon. P J Balban):** Mr Speaker, I will answer this question together with Questions 381 to 386.

995 **Substitute Clerk:** Question 381.

**Hon. S M Figueras:** Can the Government say whether it has taken steps to ensure that any heavy machinery required during the construction of Charles Bruzon House will be operated in a manner that does not put the children and staff at undue risk of injury?

1000 **Substitute Clerk:** Question 382.

1005 **Hon. S M Figueras:** Can the Government say what procedures are in place for access by emergency services vehicles to Governor's Meadow and Bishop Fitzgerald Schools during the continued closure of Europort Avenue and the building of Charles Bruzon House?

**Substitute Clerk:** Question 383.

1010 **Hon. S M Figueras:** Can the Government say what steps it has taken to ensure that children, staff and students at the three schools in the vicinity of the Charles Bruzon House construction site, have adequate exit and assembly locations in the case of emergencies?

**Substitute Clerk:** Question 384.

1015 **Hon. S M Figueras:** Can the Government say to what extent if any, the sports facilities adjacent to the site of Charles Bruzon House will be affected by the construction of the new building?

**Substitute Clerk:** Question 385.

1020 **Hon. S M Figueras:** Can the Government say whether any concerns about the safety of the staff and children at Governor's Meadow House have been raised with the Government since the announcement of Charles Bruzon House, by members of staff from any of the schools in the area?

**Substitute Clerk:** Question 386.

1025 **Hon. S M Figueras:** Mr Speaker, is the Government satisfied that the children of Governor's Meadow School are safe from hazards arising from the construction of Charles Bruzon House?

**Substitute Clerk:** Answer, the Hon. the Minister for Traffic, Housing and Technical Services.

1030 **Minister for Traffic, Housing and Technical Services (Hon. P J Balban):** Mr Speaker, the Government has not received any representations from residents of neighbouring estates in relation to the construction of Charles Bruzon House.

1035 Representations have however been received from a group of parents whose children go to Governor's Meadow and Bishop Fitzgerald Schools. The Department of Education, through the Director of Education, have also raised a number of issues to be taken into account during the construction of Charles Bruzon House.

Meetings have been held between the Government's project team, the contractors management team and health and safety advisers with the Director of Education and the head teachers of the three schools in the area to discuss all issues and explain how these will be addressed.

1040 A meeting has also been held with the representatives of the concerned parents to similarly address their concerns and explain how they will be addressed.

The full re-opening of Europort Avenue to traffic on 23rd May 2014 meant that access for emergency services to the Governor's Meadow and Bishop Fitzgerald Schools will be the same as it has always previously been.

1045 The housing project site is self-contained within what used to be the car park and so there should not be any effect on the access arrangements for emergency services whilst construction of the building is ongoing.

1050 The issue of emergency exits and assembly points have been discussed and reviewed by the City Fire Brigade's Fire Safety Officer, together with the heads of the three schools. Revisions have been made to the school's emergency plans to reflect changes made to exit routes and assembly points, all of which are in place.

1055 The sports pitches located on the south and west of Westside School will not be affected whilst Charles Bruzon House is being built, other than for the scaffolding which will be erected along the boundary wall. This will only encroach one and a half metres into the school area and will not prevent the pitches from being used for the same purposes as they currently are.

1060 Responsibility for health and safety on site lies with the main contractor in accordance with current laws and regulations. As is the case for all building sites, the Government's Health and Safety Inspectorate will carry out inspections and take action against the contractor should there be any breaches or unsafe practices. The contractor's mandatory health and safety plan includes for all heavy machinery to be operated within the constraints of the site, including the transportation of heavy loads.

**Hon. S M Figueras:** Mr Speaker, I am grateful to the Hon. Minister for the comprehensive answer he has given to the series of questions I have asked him.

1065 I would be grateful if he could just confirm, because I heard in the answer – I mean it was substantial and I may have misheard – that Europort Avenue has reopened on the 23rd May. I am grateful.

1070 Also, in relation to the site where the building is being constructed, I understood from representations that were made to me that that was indeed the assembly site in emergency scenarios for the schools. Can I confirm that the Minister has actually said that those arrangements have been reviewed and that different processes are now in place in that respect?

**Minister for Education, Telecommunications and Justice (Hon. G H Licudi):** Mr Speaker, given that the arrangements concern the schools, I will deal with the supplementary.

1075 It is indeed correct that all those matters, including health and safety issues, evacuation procedures and emergency procedures have been fully reviewed. The site in question was an area where people would congregate in the event of any emergency and certainly other sites have been identified, including areas of Bishop Fitzgerald and, as you know, there is access also to Westside School and that has also been identified.

1080 In case there is a need to have a full evacuation of both the Governor's Meadow and Bayside School area, everybody will congregate on the Westside area. So alternative arrangements certainly have been made and that has certainly been taken into account.

**Hon. S M Figueras:** I am grateful, Mr Speaker.

1085 One of the representations that was made to me was that exit from the area of the two schools into what is effectively the Montagu Gardens area, that there were certain issues relating to that, including restricted access to the area. Is this something that has been considered by the Government and dealt with appropriately?

1090 **Hon. G H Licudi:** Mr Speaker, it is something that has been considered by the Government and it is something that has been dealt with appropriately. There has now been an agreement with Montagu Gardens Estate for the opening of another exit from Westside into Westside Estate, Montagu Gardens Estate directly, that is in the course of being done.

1095 Although the question says that all emergency exits and revised arrangements are in place, this is an additional item, over and above all the other arrangements that are in place in order to have, in the event of an emergency, whether there is a need to evacuate through Westside and outside of Westside School into the Montagu Gardens area. So that is certainly something that has been considered and has now been fully agreed and will be implemented very shortly.



**Hon. S M Figueras:** I am grateful Mr Speaker.

1100 Just two short supplementary questions left on this issue and that is in relation to the use of the heavy machinery and in particular the cranes on site. Representations received by myself from concerned parents suggested – in fact I saw some video footage – of heavy machinery operating in a manner that represented, to the layman, an unnecessary... well, not unnecessary, but an undue risk to students in the area.

1105 I suppose that the second supplementary, the last supplementary I was going to ask can be asked in conjunction with that, and that is whether there are any concerns that have been raised with the Government that remain outstanding or that have not been dealt with to the satisfaction of those who have raised it with them... to the Government's knowledge clearly?

**Hon. G H Licudi:** Mr Speaker, in relation to the crane, we were advised that it is perfectly normal in any construction site to have a crane where the jib, the front part of the crane, goes over adjoining areas. 1110 Unless you have a large enough site and you have the crane in the middle, generally a crane will encroach over the adjoining areas...in other words the jib, the front part. In this particular case there will be some, what is called, free sailing of the jib around the adjoining area.

1115 However, what we have made absolutely sure is that there will be absolutely no lifting and no goods will be transferred in that part of the crane which will go beyond the area of the site itself, and that is an absolute restriction that has been placed on the contractors and the contractors will have confirmed to us. They need to confirm because I understand this is all part of health and safety regulations and they will have to do it in any event, but it is in fact a strict restriction in relation to this construction site and the contractors have clearly confirmed that this is a restriction which will be very, very strictly adhered to.

1120 The hon. Member also asks about other concerns and other issues which have been raised and issues that have been raised concern noise, dust, vibration and traffic. All those issues have been adequately addressed in a comprehensive plan which has been put together by the contractors. There have been numerous meetings between the Department of Education, Technical Services Department and the contractor. I attended a site meeting myself with both the contractor's representatives and members of my Hon. Friend Mr Balban's Department of Technical Services in which we looked at all these issues. 1125 A comprehensive plan has been put together and all the issues have been addressed, certainly to the Government's satisfaction.

1130 With regard to the parents, there was recently a meeting attended by the Deputy Chief Minister, hosted by the Deputy Chief Minister, with a group of concerned parents and the Director of Education and members of Technical Services Department were also there. I understand – and the Deputy Chief Minister can further enlighten us if necessary – that all those issues were addressed and explanations were given and satisfactory explanations were given to the group of concerned parents, who appeared to leave the meeting satisfied with what... Whether they were entirely satisfied or not it is not for me to say, but certainly those issues have been addressed, meetings have taken place and they appeared to be satisfied with the explanations that were given to them.

**Q387/2014**  
**Europort Avenue –**  
**Partial collapse; details**

1135 **Substitute Clerk:** Question 387, the Hon. S M Figueras.

**Hon. S M Figueras:** Mr Speaker, can the Government provide details of the partial collapse of Europort Avenue in March this year?

1140 **Substitute Clerk:** Answer, the Hon. the Minister for Traffic, Housing and Technical Services.

**Minister for Traffic, Housing and Technical Services (Hon. P J Balban):** Mr Speaker, during maintenance work, it was discovered that there was a partial collapse of the main drainage system on Europort Avenue at two places where it crossed the road. At said location, there was an old storm water culvert and a sea water intake which were constructed using corrugated iron sheets surrounded in concrete. 1145 Over the years, and given the lack of maintenance, the corrugated iron sheets corroded and lost their structural integrity leading to loss of material into the culvert.

1150 The works carried out have involved the complete replacement of the existing system from the entrance of the school up to the corner of Chilton Court, using new plastic pipes. Works are currently progressing on the reconstruction of a manhole on the Chilton Court side and the laying of the last short section of pipe.

The final items of work shall be the partial reconstruction of the existing manhole in front of the school and repairs to the inlet culvert.

These works will be undertaken during the school summer break.

**Q388/2014**  
**Europort Avenue –**  
**Re-opening to traffic**

1155 **Substitute Clerk:** Question 388, the Hon. S M Figueras.

**Hon. S M Figueras:** Mr Speaker, I suspect that we have already covered this answer, but I will ask the question in any event and just ask any relevant supplementaries accordingly.

Can the Minister for Traffic say when he expects Europort Avenue to re-open to traffic?

1160 **Substitute Clerk:** Answer, the Hon. the Minister for Traffic, Housing and Technical Services.

**Minister for Traffic, Housing and Technical Services (Hon. P J Balban):** Mr Speaker, Europort Avenue was re-opened to traffic on Friday 23rd May 2014.

1165 **Hon. S M Figueras:** Mr Speaker, in the context of his answer to Question 387/2014 and that there are certain parts of the work yet to be completed, can he confirm whether there is any need for traffic arrangements which will limit flow through there? I have not been in the area since I asked the question, as the Hon. Minister for Justice is suggesting. I have not been in the area. I do not know what arrangements are in place, if any.

1170 Is the Hon. Minister for Traffic able to provide us with details of what arrangements, if any, are in place for the management of traffic during the time that the remaining works are conducted?

**Hon. P J Balban:** Mr Speaker, I believe that no more works will be done on that road per se. I think the works will be done within... carried out within Chilton Court, as far as I believe.

**Q389/2014**  
**Dudley Ward Way Tunnel –**  
**Details of ongoing works**

1175 **Substitute Clerk:** Question 389, the Hon. S M Figueras.

**Hon. S M Figueras:** Mr Speaker, can the Minister for Traffic detail the works currently ongoing in Dudley Ward Way Tunnel?

1180 **Substitute Clerk:** Answer, the Hon. the Minister for Traffic, Housing and Technical Services.

1185 **Minister for Traffic, Housing and Technical Services (Hon. P J Balban):** Mr Speaker, the works currently ongoing in Dudley Ward Tunnel comprise the following: (a) the provision of brackish water wet main and fire hydrants at intervals along the tunnel; (b) the provision of fixed emergency telephone call points at intervals along the tunnel; (c) the provision of fire extinguishers at intervals along the tunnel; (d) the removal of redundant exposed pipes and supports.

The works are programmed to be completed by the end of August 2014.

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**Q390/2014**  
**Europa Road –**  
**Cost of works; completion date**

**Substitute Clerk:** Question 390, the Hon. S M Figueras.

1195 **Hon. S M Figueras:** Can the Minister for Traffic detail the costs relating to the widening of Europa Road and the addition of pavements along various stretches of it, as well as confirm when these works are expected to be completed?

**Substitute Clerk:** Answer, the Hon. the Minister for Traffic, Housing and Technical Services.

1200 **Minister for Traffic, Housing and Technical Services (Hon. P J Balban):** Mr Speaker, the sections of new pavement that has been constructed along the southern end of Europa Road have been built as part of the new water mains infrastructure project being undertaken by AquaGib. The new mains were being encased so the opportunity was taken to upgrade this to a pavement.

1205 Technical Services Department have supplied the paving slabs and railings along this section. The section of new pavement between the ends of the AquaGib works and the start of the section of new pavement being constructed as part of the Buena Vista development project has been undertaken by the Technical Services Department. The total cost of this, including the paving slabs and railings for the southern section, is £28,459.60.

The works to the pavements undertaken by AquaGib and Technical Services have been completed.

1210 **Hon. S M Figueras:** Yes, Mr Speaker, I take this opportunity to commend the Government on that initiative. Certainly it is one that is welcome on this side of the House and by many residents in the area.

1215 I wonder whether the Minister is able to tell us – though he has no notice of this question, but it generally arises in the context of it – whether there are any plans for the development of pavements along the northern section of Europa Road, particularly in the area between Brympton and the access to Sunset Close?

**Hon. P J Balban:** Mr Speaker, no, not receiving notice of that question, I would not be able to answer correctly. The issues there I would presume are the actual size of the road itself and the constraints with it being such a very narrow road.

1220 The road that has been repaired in question was one which many residents in the area were concerned about and a stretch of road where cars do travel at a reasonable speed and there was no protection for pedestrians; hence the Government took this available opportunity by making these pavements, which was possible. But there is that area, the curvy area just passed Brympton, which I would presume... I would think that it would not be possible to build a pavement along the whole length of that road.

1225 **Hon. D A Feetham:** Mr Speaker, I have actually given the issue some thought from a personal point of view, because I used to live at Highcliffe House. In fact, I also raised it with a former Minister for Trade and Industry, Mr Joe Holliday, and he said that in fact it may well be possible because part of the... I cannot remember which part, but part of the land, either the wall on the left-hand side as you walk south or on the right-hand side, parts of that are actually owned by the Government of Gibraltar. So it may well be possible to keep the width of the road as it is, but build a pavement in areas that are owned by the Government.

1230 In any event, actually if you were to ask the residents there whether they would be amenable to losing... what is it, a metre in front of their drives just to have a pavement that actually works to their advantage? It may be possible that they would also agree.

1235 But my question is would the Minister perhaps look into this, because it is one of the most dangerous parts of Gibraltar? There are a lot of people who walk their dogs. There are a lot of people who walk with their children in that particular area and it is very, very dangerous.

1240 **Hon. P J Balban:** Mr Speaker, we will most certainly, we do agree that it is something which could be looked at and we will most certainly be looking and addressing it within this next 16 years of Government. *(Laughter and interjections)*

1245 **Mr Speaker:** Next question.

**A Member:** That was very droll.

1250 **Hon. Mrs I M Ellul-Hammond:** Mr Speaker, in relation to the... Congratulations on your confidence in the –

**Hon. D A Feetham:** Well, arrogance actually; not confidence. But anyway –

**Several Members:** Oh!

1255 **Hon. Mrs I M Ellul-Hammond:** In relation to that area, the Hon. Minister has been talking about the stretch from Brympton to the bottom of Windmill Hill, has the Government considered having a partial one-way system with the road that takes you partly down Naval Hospital Hill and then up out via Brympton and then that stretch of Europa Road from Brympton to the bottom of Windmill Hill, perhaps considering a one-way system there that would enable to provide room for a pavement?

1260 **Hon. P J Balban:** Mr Speaker, I do not believe that that has been considered, but as part of our Traffic Plan we will be looking at every single aspect that could help. Remember, one of our priorities is to increase the safety of pedestrians throughout Gibraltar in many locations and it is something which if can be done will be looked at. I do not believe the Government has looked at that, but I will ask in the Department.

**Q391/2014**  
**Large-scale resurfacing of roads –**  
**Government plans**

1265 **Substitute Clerk:** Question 391, the Hon. S M Figueras.

**Hon. S M Figueras:** Mr Speaker, can the Minister for Traffic detail what plans the Government has for the large-scale resurfacing of Gibraltar's roads?

1270 **Substitute Clerk:** Answer, the Hon. the Minister for Traffic, Housing and Technical Services.

**Minister for Traffic, Housing and Technical Services (Hon. P J Balban):** Mr Speaker, the contracts to carry out the first phase of a major highway resurfacing programme has recently been awarded to AMCO (Gibraltar) Ltd in the sum of £577,231.75.

1275 The works will involve the full resurfacing of Line Wall Road, from Smith Dorrien Bridge up to Cloister Ramp, and the full resurfacing of Rosia Road, from the Trafalgar interchange up to its northern junction with Cumberland Road.

1280 **Hon. S M Figueras:** I am sorry, could the Hon. Minister just repeat the last bit from Trafalgar interchange to ...?

**Mr Speaker:** The northern junction.

1285 **Hon. P J Balban:** I said the works will involve the full resurfacing of Line Wall Road from Smith Dorrien Bridge up to Cloister Ramp and the full resurfacing of Rosia Road from the Trafalgar interchange up to its northern junction with Cumberland Road.

**Hon. S M Figueras:** Mr Speaker, I am grateful for the reply. I wonder whether he could repeat the cost. I did not quite get the cost.

1290 **Hon. P J Balban:** Mr Speaker, the cost was £577,231.75.

1295 **Hon. S M Figueras:** Mr Speaker, this question does generally arise from the original one, in terms of the actual deployment of the resurfacing. Has the contractor encountered any issues with the siting of the equipment that they are using to prepare for this resurfacing, mainly on the east side reclamation?

**Mr Speaker:** I will allow this supplementary, but I find it very difficult to see what connection it has with the original question. But I will allow it.

1300 **Chief Minister: (Hon. F R Picardo):** Mr Speaker, this is an issue which is being dealt with generally, also in my office because it involves all different parts of Gibraltar, and as I can see the hon. backbencher looking at me, he will know that this is the part of the jigsaw puzzle that is Gibraltar.

1305 There have been no issues because the plant that is there is simply there at the moment not to operate; it is only there whilst an area in a different part of the reclamation is made available which was presently taken up by rock and sand which is being used for the Sandy Bay project. So it will move into an area where there will be no issues with the operation of the plant.

**Hon. S M Figueras:** I am grateful to the Chief Minister.

1310 Could the Hon. Minister for Traffic say whether in addition to the contract that has been awarded in respect of Line Wall Road and Rosia Road, whether there are any other plans in the pipeline for resurfacing in other areas of Gibraltar?

**Hon. P J Balban:** Mr Speaker, we are looking at the next phase in the programme and would be the southern section of Line Wall Road and Queensway.

**Q392-396/2014**  
**Sustainable Traffic, Transport and Parking Plan –**  
**Publication of report; cost to taxpayers**

1315 **Substitute Clerk:** Question 392, the Hon. S M Figueras.

**Hon. S M Figueras:** Mr Speaker, can the Minister for Traffic provide an update to this House in the context of the findings of the Sustainable Traffic and Transport Management Plan?

1320 **Substitute Clerk:** Answer, the Hon. the Minister for Traffic, Housing and Technical Services.

**Minister for Traffic, Housing and Technical Services (Hon. P J Balban):** Mr Speaker, I will answer this question together with Questions 393 to 396.

1325 **Substitute Clerk:** Question 393.

**Hon. S M Figueras:** Can the Minister for Traffic say when he expects the Sustainable Traffic and Transport Management Plan will be published?

1330 **Substitute Clerk:** Question 394.

**Hon. S M Figueras:** Can the Minister for Traffic provide details to this House of initiatives which the Government is intending to pursue or is indeed pursuing as a result of the findings of the Sustainable Traffic and Transport Management Plan?

1335 **Substitute Clerk:** Question 395.

1340 **Hon. S M Figueras:** Can the Minister for Traffic provide details to this House of the traffic measures he expects to be carried out in consonance with the findings of the Sustainable Traffic and Transport Management Plan?

**Substitute Clerk:** Question 396.

1345 **Hon. S M Figueras:** Can the Minister for Traffic say what the total cost to the taxpayer has so far been in the context of the Sustainable Traffic and Transport Management Plan?

**Substitute Clerk:** Answer, the Hon. the Minister for Traffic, Housing and Technical Services.

1350 **Minister for Traffic, Housing and Technical Services (Hon. P J Balban):** Mr Speaker, the first draft of the Government's new Sustainable Traffic, Transport and Parking Plan has been completed. This is currently undergoing an internal review process and so it is not possible to give a definite date for its publication. It is not possible to provide details at this stage of the findings, the initiatives that will be pursued, nor the measures that will be implemented as these are still subject to review.

1355 As has been previously stated in this Parliament, the Plan will look at ways of encouraging alternative forms of transport with the aim of improving our environment and how we move around for the benefit of all.

The total cost to date, in the context of the sustainable Traffic, Transport and Parking Plan, is £368,219.05.

1360 **Hon. S M Figueras:** Mr Speaker, I am grateful for the answer, though I have to say it seems that this plan is the subject of great mystery when it is something that would certainly, I am sure, be very welcome in the public domain and certainly not least for the Opposition.

It strikes us, Mr Speaker, that there will have been many findings that subject to any kind of redraft or internal review that is currently ongoing, there should be no great issue with divulging and making available to the Opposition in this House.

1365 What reasons can the Minister give for the delay in providing this House at the very least – if not publication of the Plan itself... providing details to this House of those issues rather more specifically than generally trying to encourage alternative forms of transport and all those matters that we have covered here in the past for not doing that?

1370 **Hon. P J Balban:** Mr Speaker, I encourage the eagerness of the hon. Member and the Opposition to see what important findings come as part of the Traffic Plan. We must remember that this is a draft; hence it is work in progress.

1375 Those Members who have read the draft can see already there are going to be very many positive suggestions and it will definitely be something which will be very, very positive for Gibraltar. But until that draft has been read through and it becomes a *final* document, then that is when the Opposition will be able to have a look, as will the whole of Gibraltar when it is published.

1380 **Hon. S M Figueras:** Mr Speaker, is the Minister saying that the Government has not made any decisions whatsoever in respect of any measures whatsoever that they will be taking following the recommendations and findings of the Plan? If they have taken such decisions because certain issues certainly are very clear to them and the stakeholders, why is it that he cannot tell this House what it is that they are already planning on doing?

1385 **Chief Minister (Hon. F R Picardo):** Mr Speaker, I think it is important that we understand the parameters that we are talking about.

1390 The Plan is being worked on at the moment by the local technical people, who have received the draft from those who have been helping us prepare it. It has not yet been shared with other Ministers. It will have to be shared with other Ministers for other Ministries to have input also. Once we have done that, then we will produce a final document, which he will be happy to know, I reiterate, will be shared with them and with all of the public in Gibraltar.

1395 Now, he would be right, Mr Speaker, to take us to task for not publishing the final report. He would be absolutely right to say if we did not publish the final report, we would not be complying with our obligations of accountability and transparency. He would be absolutely right to say that with the final report, on which we have spent taxpayers' money, we should not be *acting* without sharing that information with the public and of course with Members of this Parliament. But, of course, if he did that, Mr Speaker, he would run the risk of being a critic of the previous Administration (**Hon. D A Feetham:** Oh...) which had many reports which they did not publish. I hear the Hon. the Leader of the Opposition groaning. I am not surprised, Mr Speaker, because the strain of the record of the previous Administration that he has to pull along with him, which does not enable them to rise up like the phoenix that they wish to rise like, is there, and it is a history that is always going to burden them.

1400 I remind them, for example, Mr Speaker, of the report into the future of GBC prepared by Mr Allan King, something which I was asking the previous Administration to disclose for many years. We entered into a commitment that we would publish the minute that we were elected and we published it two weeks after we were elected. There was nothing there in our view that could not be shared with the public. We made a small redaction which identified an individual, but otherwise it was a report paid for by the taxpayer and shared with the public.

1405 Of course there is also the report into the future of the Customs Department, which was prepared by the previous Administration and *not* shared publically, although paid for by the taxpayer, which we also shared with the public and with the people at Customs who were concerned.

1410 So, Mr Speaker, absolutely right to press us on publishing the report; but absolutely no chance of us publishing a draft.

1415 **Hon. Sir P R Caruana:** Mr Speaker, I promise I am not rising like a phoenix (*Laughter*) but I would like to just, sort of, slip in a supplementary here.

The word 'draft' has been used by both hon. Members in their response. Would the hon. Members confirm whether they have received a report from the consultants and they are now considering it locally to produce from it the report of what they want to do? In other words, their action plan.

1420 Does the adjective 'draft' apply to the report or to their action plan of what parts of the report they wish to accept and not accept, which would be normal? Consultants come in, they make a million recommendations. And then the Government would consider them and extricate the ones that they like and implement them. Have they received a report which is not in draft or a list of ideas or recommendations from the consultants?

1425 **Hon. Chief Minister:** As I understand the position, what has been received is a draft, still for consultation with the technical people here, who are working with the technical people in the UK, and that is why it has not been shared with the Cabinet as a whole yet.

I understand that one or two Ministries, whose technical staff is the staff involved in liaison with the technical people in the UK, are the ones who have it, but there is not yet something which is at the concrete level of a recommendation.

1430 **Hon. S M Figueras:** But you see, Mr Speaker, I am not alluding to the publication of the report itself in the supplementaries that I asked. I am alluding to the initiatives or findings, which are generally accepted as positive and workable in Gibraltar, that may still be subject to further internal review on the details of how they will be deployed, but the disclosure of those findings which have wide acceptance which may provide a glimpse into what it is that we can expect in the future as a result of the Plan.

1435

**Hon. P J Balban:** Mr Speaker, there are many things within the report that I have read so far which will be very interesting to proceed with. As we said, the report will be targeting other forms of transport – so other forms of moving people around Gibraltar in a more environmentally friendly way.

1440

So it will be looking at the use of more bicycles and it will be looking at the bus service, but these things we have mentioned already, but until we are not... these are recommendations and we need to look at these in detail before taking a final decision.

**Mr Speaker:** Next question.

#### Q397/2014

#### Government vehicles – Number powered with non-polluting engines

1445 **Substitute Clerk:** Will the Hon. Selwyn Figueras be putting the Questions 397 and 353 in respect of Mr Netto... Questions 397 and 353? Those are questions posed by the hon. Member Mr Netto. Question 397, the Hon. S M Figueras on behalf of the Hon. J J Netto.

1450 **Hon. S M Figueras:** Mr Speaker, further to Question 783/2013 and to the answer to Written Question W149/2013, can the Government state how many of the vehicles, since these questions were asked, that have been bought to date are powered by non-polluting engines other than the G1?

**Substitute Clerk** Answer, the Hon. the Minister for Traffic, Housing and Technical Services.

1455 **Minister for Traffic, Housing and Technical Services (Hon. P J Balban):** Mr Speaker, no vehicle powered by an exclusively non-polluting engine has been bought since Question 783/2013 was asked.

#### Q353/2014

#### New power station – Report; allocation of tender

**Substitute Clerk:** Question 353 the Hon. S M Figueras on behalf of the Hon. J J Netto.

1460 **Hon. S M Figueras:** Mr Speaker, further to Question 240/2014 and to Question 573/2013, can the Minister with responsibility for Utilities please provide Parliament with copies of the full report stated in his answer in relation to the new power station, given that according to the Hon. Minister, the allocation of the tender would be, and I quote ‘towards the end of April’?

1465 **Substitute Clerk:** Answer, the Hon. the Minister for Traffic, Housing and Technical Services on behalf of the Hon. the Minister for Sports, Culture, Heritage and Youth.

**Minister for Traffic, Housing and Technical Services (Hon. P J Balban):** Mr Speaker, the answer remains the same as that of my answer to Question 240/2014.

**Mr Speaker:** Next question.

**FINANCIAL SERVICES AND GAMING**

**Q398/2014**

**Minister's travelling expenses –  
Trips undertaken; costs and allowances**

1470 **Substitute Clerk:** Question 398, the Hon. D J Bossino.

**Hon. D J Bossino:** Can the Minister for Financial Services provide details of the trips he has undertaken since coming into Office, together with the costs of such attendance, broken down by travel costs, subsistence allowance and who attended with him?

1475 **Substitute Clerk:** Answer, the Hon. the Minister for Financial Services and Gaming.

**Minister for Financial Services and Gaming (Hon. A J Isola):** Yes, Mr Speaker, the information requested is available on the Government website.

1480 **Mr Speaker:** Next question.

**EDUCATION, TELECOMMUNICATIONS AND JUSTICE**

**Q399/2014**

**Bishop Fitzgerald School –  
Asbestos concerns**

**Substitute Clerk:** Question 399. This is a question which has been posed by the Hon. J J Netto and it is in connection with asbestos and the Education Department. Who is going to be...?

1485 Question 399, the Hon. Mrs I M Ellul-Hammond on behalf of the Hon. J J Netto.

**Hon. Mrs I M Ellul-Hammond:** Mr Speaker, can the Minister for Education say if there have been recent reports of asbestos concerns in Bishop Fitzgerald School and if so, provide Parliament with a statement?

1490 **Substitute Clerk:** Answer, the Hon. the Minister for Education, Telecommunications and Justice.

**Minister for Education, Telecommunications and Justice (Hon. G H Licudi):** Mr Speaker, no recent reports in relation to concerns over asbestos in Bishop Fitzgerald have been brought to the attention of the Department of Education.

1495

**ENTERPRISE, TRAINING, EMPLOYMENT AND HEALTH & SAFETY**

**Q400-405/2014**

**Future Job Strategy trainees–  
Salaries; training; numbers employed privately**

**Substitute Clerk:** We are now going to proceed to questions which have been put to Minister Bossano. Question 400, the Hon. D J Bossino.

1500

**Hon. D J Bossino:** Can the Minister for Employment provide details of how many people are undergoing training at a cost to the Government, together with the industry area in which such training is being carried out outside the FJS scheme?

1505 **Substitute Clerk:** Answer, 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 will answer that question with Questions 401 to 405.



1510 **Substitute Clerk:** Question 401.

**Hon. D J Bossino:** Can the Minister for Employment provide updated details of the expenditure in terms of salaries paid to the trainees in the FJS since his reply to Question 325/2014, broken down on a monthly basis?

1515 **Substitute Clerk:** Question 402.

**Hon. D J Bossino:** Can the Minister for Employment provide current details as to how many employees each of Construction Training Company Limited, ETCL, Graduate Research and Development Company Limited and SECL have had, broken down by month, since his answer to Question 328/2014 to date?

**Substitute Clerk:** Question 403.

1525 **Hon. D J Bossino:** Can the Minister for Employment provide updated details of the number of private employers which have employed FJS trainees, with details of how many trainees have been employed by each employer, broken down by month since his answer to Question 329/2014 to date?

**Substitute Clerk:** Question 404.

1530 **Hon. D J Bossino:** Can the Minister for Employment state where trainees are currently placed in the private sector as relevant to the industry area of the private employers?

**Substitute Clerk:** Question 405.

1535 **Hon. D J Bossino:** Can the Minister for Employment provide details as to where the grad trainees are currently placed?

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

1540 **Minister for Enterprise, Training, Employment and Health & Safety (Hon. J J Bossano):** Mr Speaker, there are currently 10 persons in such training in the industry areas of sea transport and related services and in road transport. Salaries paid to trainees since the answer to Question 325 are as follows: February, £400,000; March, £406,000; April, £370,000.

1545 Since the answer to Question 328/2014, the numbers of employees are as follows:  
Company 1, January to April: January, 134; February, 145; March, 121; April, 118;  
Company 2: January, 155; February, 151; March, 151; April, 115.  
Company 3: January, 80; February, 72; March, 70; April, 67.  
Company 4: January, 73; February, 72; March, 72; April, 70.

1550 Since the answer to Question 329, the number of trainees and the number of private employers are as follows:

February: 43 employers with one employee each; 15 Employers with 2 trainees each; 10 with 3; 10 with 4; 2 with 5; 2 with 6; 1 with 7; 1 with 12.

1555 March: 49 with 1 each; 25 with 2 each; 10 with 3 each; 5 with 4 each; 2 with 5 each; 1 with 6; 1 with 7; 1 with 11.

April: 53 employers with 1 trainee each; 20 with 2 each; 13 with 3 each; 3 with 4 each; 2 with 5; 2 with 6.

1560 The industry code of the private sector trainee placements as at 31st March 2014 was as follows: other manufacture; construction; wholesale trade; retail trade; repairs of consumer goods; restaurants, bars etc; sea transport and related services; road transport; banking, finance and insurance; Police and Fire Service; Education; and other services.

On 30th April the grad trainees were placed in the following industry areas: public administration and National Defence; and other services.

1565 **Hon. D J Bossino:** A question of detail, I cannot cite the exact question the Hon. Minister was answering, but it is basically the number of trainees, and I have this specific question in relation to that and perhaps he could clarify. It is basically the list he gave of employers who have trainees employed... or have employed trainees rather. I think he gave me the details for January, February and then he went on to April. Has he given me March? He has given March? Okay. It started in February.

1570

**Hon. J J Bossano:** I think, Mr Speaker, the figure for January was given the last time he asked the question, yes?

1575 **Hon. D J Bossino:** In relation to that question, which I can identify as Question 403, the question specifically relates to the number of private employers who have actually employed trainees. Whilst, with the benefit of time, I read the answer he gave me in the last sitting of the House in March, he provided the statistical information, but based on this... and this is the way he phrases his answer, which is 'the number of private employers with trainee employees between...', and then he sets out the dates, just to be certain that we are both singing from the same hymn sheet and we understand each other, what I am asking is the number of employers who have actually formally employed trainees, as opposed to having trainees placed with them. Can he confirm that he has understood the way that I have put the question?

1580  
1585 **Hon. J J Bossano:** No. Mr Speaker, the answer that I gave to Question 329 and the answer that I have given is the number of trainees still paid by the scheme and placed with the employers. So there are 43 who have got one each as a trainee. The bulk of these will of course be employed and I can give him a list of when their training is finished, but these are the people who are currently in training and this is the distribution of where the trainees are placed.

1590 **Hon. D J Bossino:** I think in fact there has been a misunderstanding. The question was very specifically worded, but then I was able to... again with the benefit of time when I had the chance to review the answer he gave in writing, I noticed that I think he misunderstood the question. Perhaps I am repeating myself, but the answer...this is also interesting information which I will analyse.

1595 What I am interested in is the statistics which show the trainees who have actually been formally employed by the private employers. In other words the trainees are no longer – if I can use the terminology or the way that the Hon. Minister has answered the question right now – no longer in the payroll of the scheme and actually in the payroll of the private employer. That is the information which I sought in March and the updated information that I am seeking now. Obviously it is information which I am sure the hon. Member can provide, but presumably will not be able to provide this morning.

1600 **Hon. J J Bossano:** Well, I can provide it, but of course it is not very meaningful, in the sense that there are these other people who are currently in the training. He already knows from the figures when he has asked me how many of the trainees have finished up in employment at the end of the training and the answer that I gave him when he asked me the last time, which was quite a long time ago, was that it was 65% at that time. So in effect the percentage, if anything, is higher now than it was then; but the month is of no particular relevance.

1605 In the case where there is only one person with 43 employers, people start in different periods and finish in different periods. There is no correlation between the month in which they spent in training and the month in which they finish in training, but I can tell him that it is of the order of 65% to 70% of the numbers that I have got here who finish up employed.

1610 **Hon. D A Feetham:** Yes, but, Mr Speaker, the question that he has asked is a very specific question. He said, 'details of the number of private employers which have employed Future Job Strategy trainees'. Now, we all know that the employment contracts of the trainees are not with the private companies. They are with ETCL and the other companies. They are the ones that employ these individuals. They are the ones that pay them.

1615 It is asking for how many private employers have employed Future Job Strategy trainees. The question is specific, he has given another answer. He is asking now for us to extrapolate the figures from the percentage that he is giving us. If he does not have the statistics, I accept that, even though the question is very specific and it is very clear.

1620 But, in answer, will he provide to my hon. Friend, by way of a letter, the monthly statistics, because that is what he is asking: how many people have actually been employed by employers following their training in January, in February, in March and in April?

1625 **Hon. J J Bossano:** Well Mr Speaker, I am answering it the same way as I answered Question 329, because the question said, 'since the answer to Question 329/2014'. So I am giving an answer which follows the same as the one that he asked previously, which was in fact understood to mean what was the distribution of trainee employees.

1630 When they have completed their training they are no longer trainees of course, they are then employees of the placement provider. I have already told him that the last time I answered that question it was 65% and that the percentage is higher; of course I can go and get the Department to work out the figures. If he

asks me the question the next time I will give it to him for both Question 329/2014 and this one, if he wants it, for 329/2014 as well.

1635 **Mr Speaker:** Could I suggest that the hon. Questioner follows the matter up in writing and makes it clear in his letter to the Minister exactly what is the information that he wants?

**Hon. D J Bossino:** Yes, Mr Speaker, the question is in fact in very clear terms and it is exactly the same terms as I have posed it here, but clearly understood from reading the answer that the Hon. Minister had misunderstood it. That is fair enough. We are all human. We all make mistakes.  
1640 But just for the record, the question is and was in very, very clear terms.

**Mr Speaker:** Next question.

1645 **Substitute Clerk:** Question –

**Hon. D J Bossino:** Mr Speaker, there were five or six questions bunched together and I have some supplementaries.  
I did not make an accurate note of the answer that the hon. Member gave in relation to Question 400, which was posed in terms of the assistance which the Government is giving *outside* the FJS scheme. The reason why I asked that question is that I think the hon. Member, if he recalls, at the last sitting of the House said that assistance was being given to those individuals, who, for example, wanted to undergo heavy goods vehicle training. I think he also cited the example – again from memory – of hairdressing, but they were not formally part of the FJS scheme. In other words, they do not necessarily have to subject themselves to a contract and his Department with a private employer does not follow that scheme. I was interested to know what the cost of that was. I am not sure if I got the answer, because I have not taken a full note of the answer he would have given to that particular question. The question is Question 400.  
1650  
1655

**Hon. J J Bossano:** Mr Speaker, Question 400 says, ‘how many people are undergoing training at a cost to the Government’, but it did not say at what cost to the Government. So what I have given him is the number, which is what he asked. The number is 10.  
1660

**Hon. D J Bossino:** [*Inaudible*]

1665 **Hon. J J Bossano:** There are 10 people. Of those, six were doing bus driving, but they do not get paid. What the Government pays is the cost to the company that is training them.

**Hon. D J Bossino:** Does he have the information as to the cost to the Government?

1670 **Hon. J J Bossano:** It works out at about £1,200 per person for a period of three months or something like that – that is the order of cost.

To train somebody who has already got a driving licence and get him up to what is required by the public service or the Transport Commission, or whoever it is that gives them a licence to be able to drive a public service vehicle, takes three months and costs about £400 a month per driver.

1675 **Hon. D J Bossino:** Mr Speaker, I think the Hon. Minister said that there were about six of the 10 who were benefitting from this, and the others are in which area of activity?

1680 **Hon. J J Bossano:** The others are involved in maritime activities and are not paid from the vote of the ETB. They are paid from a fund that has been there for some time, which is created from a levy from the port users, but the money comes out of that fund and there are four people in that area.

1685 **Hon. D J Bossino:** Can the Minister tell me how do individuals access this facility? If somebody pops round to the ETB offices and asks for assistance, what criterion for selection of a candidate is there in place? Is there any formality in relation to that, in terms of selection, in terms of how much money they get paid?

1690 As I said, I do specifically recall him referring to various areas of activity and I do not think he was specific. He was just almost suggestive that anybody who approached the Government with an idea, whether it be an employer or somebody who wants to benefit from training, can approach the Government and obtain assistance in this regard. Can he shed some light in relation to that?

**Hon. J J Bossano:** The maritime thing is not run by the Employment Service and has been there for some time. I think it is advertised and people apply. There are four currently.

1695 The bus drivers and, for example, heavy goods, plant operators and stuff like that is something that is offered to people who are unemployed in order to improve... I mean if we find, for example, that there are bus driver vacancies and we have difficulty in filling them or there are requirements for lorry drivers or  
1700 plant operators and we have difficulty in filling them because people who are registered as unemployed do not have the necessary skill or may have the skill but do not have the necessary licences, then what the Employment Officers do when they are looking at the jobs that can be offered to the people that are being assisted in finding employment, they are told that training in these areas is available; but this is not part of the normal scheme because they continue to be registered as unemployed and they do not get paid while they are being trained.

1705 The only cost is the cost of the provision of the training. So that is the only area. I have assumed that outside the scheme meant that they are not with a contract of employment with one of the four companies. (**Hon. D J Bossino:** Exactly.) Right, but at the moment it is the bus drivers.

**Hon. D J Bossino:** Again, this is something in respect of which his Department has a complete control and handle. They are the ones who decide and identify that there is a deficiency of skills in one area and as he has explained, they offer, basically, a way out, but is it something which is there, available and transparent and available to all?

1710 Is it an extra service which is available to the public in general which can be accessed by the public in general by popping round to the Minister's office and trying to find out whether any assistance... because, again, I have said this is the third occasion, but I specifically recall that the hon. Member mentioned hairdressing, for example, which does not fall into the categories he has been referring us to this morning. So I just thought is there something that is available to the public in general and that they could benefit from?

**Hon. J J Bossano:** Mr Speaker, it is something that is done by the Department in order to get people who are not with a job into a job. So the answer is, this is not, somebody cannot just walk in and say, 'Well, I like the idea of being able to drive a bus'. It does not happen like that. Clearly, you have got to be unemployed. You have got to be looking for work. You have got to be in a position to be willing to work as a bus driver. You have got to be in a position to pass whatever vetting is required of bus drivers, because they have the responsibility for driving passenger vehicles.

1720 If you meet the criteria where obtaining the licence makes the difference between being able to apply for the job or not being able to apply for the job, then in effect what we are doing is in addition to the training, where we take people on a payroll, we are providing training where the unemployed person clearly cannot afford to pay for the training because he is unemployed. (**Hon. D J Bossino:** Okay.) So it is as simple as that. It is simply a mechanism for adding something more to the range of mechanisms that the Department has in order to bring unemployment down.

1730 Independent of that, the question of something like hairdressing, which I mentioned before, is different from the normal thing because there what we have got is somebody who approached the Government with a proposal for training hairdressers. But those hairdressers are being paid 20 hours a week, because unlike the bus driving thing, which is something that people can still carry on being unemployed and also get training two or three days a week, in the case of hairdressers where they are 20 hours in a hairdressing salon getting trained, we are paying them 20 hours, but the trainer is not required to undertake to employ the people who are doing the hairdressing. So that is one thing that makes it different from the normal system, which is the vacancy is identified and the person who is supplied as a trainee is being trained for a job that already exists. In this case the people who are doing the hairdressing will, on completion of the hairdressing, not have a guaranteed job.

1740 **Mr Speaker:** Next question.

**Chief Minister (Hon. F R Picardo):** Mr Speaker, if I might after that exposition of the excellent work being done at the Employment Ministry, may I move that the House now adjourn until 3.00 p.m. this afternoon?. Sorry, not adjourn, but recess until 3.00 p.m. this afternoon.

1745 **Hon. D J Bossino:** Mr Speaker, just simply to point out that obviously I am still in the midst of posing supplementaries to the five questions which were bunched up together by the Hon. Minister.

1750

**Mr Speaker:** Some Members have to attend an investiture at midday. *(Interjections)*  
So the House will now recess until 3.00 p.m. this afternoon.

*The House recessed at 11.40 a.m. and resumed its sitting at 3.10 p.m.*



# PROCEEDINGS OF THE GIBRALTAR PARLIAMENT

AFTERNOON SESSION: 3.10 p.m. – 6.45 p.m.

Gibraltar, Thursday, 29th May 2014

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# The Gibraltar Parliament

*The Parliament met at 3.10 p.m.*

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

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

## Questions for Oral Answer

### SPORTS, CULTURE, HERITAGE AND YOUTH

**Q354-359/2014**

#### **New power station; update – Cost of imported generators; storage/transportation of LNG**

**Substitute Clerk:** Answers to Oral Questions continued.  
Question 354/2014, the Hon. D A Feetham.

5 **Hon. D A Feetham:** Mr Speaker, can the Chief Minister state what has been the cost so far to the taxpayer of all the temporary generators which the Government has imported since 2012?

10 **Substitute Clerk:** Answer, the Hon. the Chief Minister on behalf of the Hon. the Minister for Sports, Culture, Heritage and Youth.

**Chief Minister (Hon. F R Picardo):** Mr Speaker, I will answer this question, together with Questions 355 to 359.

15 **Substitute Clerk:** Question 355.

**Hon. D A Feetham:** Mr Speaker, can the Chief Minister state when the Government expects to commence work on the land reclamation associated with the new power station?

20 **Substitute Clerk:** Question 356.

**Hon. D A Feetham:** Mr Speaker, can the Chief Minister state when the Government expects to commence the building of the new power station at the North Mole?

25 **Substitute Clerk:** Question 357.

**Hon. D A Feetham:** In the light of the tender in respect of the liquefied natural gas installation at the Detached Mole, can the Government state what minimum amount of natural gas would be required in order for the storage facilities to become cost effective... *to be* cost effective? I beg your pardon.

30 **Substitute Clerk:** Question 358.

**Hon. D A Feetham:** Can the Government confirm whether there will be an exclusion zone around the liquefied natural gas installation and, if so, provide details of the same?

35 **Substitute Clerk:** Question 359.



**Hon. D A Feetham:** Mr Speaker, how does the Government intend to transport and/or supply liquefied natural gas to the proposed liquefied natural gas installation in Gibraltar and from there, how will any gas be transported to the new power station in useable form?

40

**Substitute Clerk:** Answer, the Hon. the Chief Minister on behalf of the Hon. the Minister for Sports, Culture, Heritage and Youth.

**Chief Minister (Hon. F R Picardo):** Mr Speaker, before I launch into my reply as this is the first opportunity I have to speak in this session, may I just quickly record on *Hansard* the Government's thanks to the Returning Officer, his staff and all public servants in Gibraltar for their excellent work at the recent European Election.

45

Mr Speaker, the total cost so far of the temporary generators since 2012 until the end of April 2014 has been £10,252,359.75.

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It is anticipated that the reclamation works associated with the new power station will commence at the end of June 2014.

The validity date of the new power station tender has had to be extended until mid-June on account of the numerous technical clarifications from the tenderers that were still outstanding to allow the tender to be evaluated. This delayed the process by 60 days.

55

Mr Speaker, at this stage we have issued a prior identification notice, not a tender, to identify interested parties for the supply, storage and reclassification of liquefied natural gas in Gibraltar. Once these expressions of interest are reviewed, we will be able to engage with the different interested parties to determine what is the minimum amount of LNG that will be needed to be stored for it to be cost effective, together with what will be any exclusion zone around the LNG installation.

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**Hon. D A Feetham:** Yes, Mr Speaker, the Hon. the Chief Minister has not provided an answer to Question 359, which is the transport of the gas to the installation and then from the installation in useable form to the power station.

65

**Hon. Chief Minister:** Mr Speaker, I thought he would have understood that because the PIN is not yet determined, it is not possible to give a detailed answer to his question.

**Hon. D A Feetham:** Mr Speaker, he may not be able to give me a detailed answer to my question, but no doubt the Government has investigated how it intends to bring liquid gas to the Detached Mole, and then presumably from there it has an idea as to how it is then going to either pipe or transport in another way, the gas, to the power station.

70

Can he provide us with at least a flavour of how the Government intends to do that or alternatively what are the various possibilities in relation to this?

75

**Hon. Chief Minister:** Mr Speaker, there are very many different options and until the Government decides which option based on the advice we are receiving is the one that we are going to pursue, I would not be able to give any detail that is of any use to the House, other than to set out what all the possible options may be. He is, I assume, as able as anybody else in our community to work out what all of those possible options may be.

80

We can have a discussion, if he likes, about what all the possible options are, but I do not think that is conducive to the community being any wiser as to what exactly it is that is going to happen. That position can be put once the technical advice to the Government has been received. The Government has then made the decision and then explains publically what methods are going to be used. But you know he is saying himself from the Detached Mole it is not going to involve trucks, it is going to involve probably some sort of underwater pipeline if that is the solution that is recommended.

85

**Hon. D A Feetham:** Mr Speaker, the Hon. the Chief Minister is aware or must be aware that there is European legislation in relation to exclusion zones around plants of this nature and it requires that any authority that is planning to install a plant of this nature conducts a risk assessment in order to determine what kind of exclusion zone there is around a plant of this nature. Can the Government confirm that such a risk analysis has already been completed?

90

**Hon. Chief Minister:** Mr Speaker, different levels of risk analysis are required. Until the actual amount of gas that is going to be stored is determined – and that is the subject of advice – the actual exclusion zone, such as it may be, cannot be determined. I would have thought it obvious that the exclusion zone for 100 cubic metres of gas, or whatever it is measured in, is different to the exclusion zone for 1,000 cubic metres, and that is an issue which is still the subject of advice.

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100 **Hon. D A Feetham:** Mr Speaker, is he satisfied on the information that he has at the moment that locating a plant of this nature in the Detached Mole is going to allow him or his Government to have an exclusion zone around this particular plant that satisfies risk and any relevant European legislation?

**Hon. Chief Minister:** Mr Speaker, I am satisfied that the options that are being put to the Government do not involve the Government being in breach of any relevant legislation, European or otherwise.

105 **Hon. D A Feetham:** Mr Speaker, moving on to the question of the power station, he said that the land reclamation is to commence work in June 2014 and that the tender in relation to the power station has actually been extended by another 60 days. Is he satisfied that the completion of the power station will be completed before this Parliamentary term and before the next General Election?

110 **Hon. Chief Minister:** Mr Speaker, I am satisfied that it will be done with such alacrity as it is possible to do it in order to do it safely and in order to ensure that we make the right choice for this community for many generations. I am certainly satisfied that work will start during the lifetime of this Parliament, but as he knows, Mr Speaker, we did not have a manifesto commitment [*inaudible*] fixed Parliaments. Therefore the next  
115 Election is not necessarily going to be held on 8th December 2015 and it may very well be held before the end of this year for all he knows, and therefore with the best will in the world, nobody can build a power station in a few months.

**Hon. Sir P R Caruana:** Mr Speaker, I rise just to touch on the same subject, as I did last time this matter came before the House.

120 Whilst admitting to not being very technologically minded, the hon. Member knows that I have a sort of luddite nervousness about the concept of liquefied natural gas in a small place like Gibraltar, and indeed the fact that there are EU Regulations that require the determination of the required exclusion zone suggests – at least to the ignorant person and I admit to being that on this matter – that there is an element of risk, otherwise EU regulations would not be concerned with the size of exclusion zones.

125 The Government obviously does not share the same concern as I do about the intrinsic risk involved in liquefied natural gas fired power stations. But can I just ask whether the hon. Members are now, as a matter of policy, committed to that or are there any options that they are being given in the bidding process that might limit the Government, might enable the Government ultimately to opt just for a more traditional diesel powered station, or is that beyond policy decisions that have already been made?  
130

**Hon. Chief Minister:** Mr Speaker, to a great extent policy is driven by technical advice and it is within the realms of what the technical advice tells one is possible that policy can be fixed. I think this is something that he will have come up against himself on a number of occasions, that however much you might want to push a particular policy, if the technicians say, ‘Look this does not come within the rules and the ambit of  
135 what is allowed under the European rules, for example, then it is not a policy that is going to prosper.

So the Government is satisfied that its policy of pursuing a cleaner fossil fuel in terms of emissions, a much cheaper fossil fuel in terms of cost, is one which is deliverable within Gibraltar and the technical advice demonstrates that. We would not be pursuing it if the technical advice was such that we were told that the exclusion zone required around any type of liquefied natural gas solution was two and three quarter miles, in  
140 which case it would be very nice to have the facility here, but none of us would be able to get near our homes. That is not the position.

The hon. Gentleman knows that there are exclusion zones in terms of health and safety requirements around many different types of installations. It is not possible these days, for example, if you are not grandfathering, to simply have a large deposit of diesel without some element of an exclusion zone as well.  
145 So therefore this is degrees of exclusion zone, degrees of health and safety concerns and ensuring that what is done comes within the sort of HAZ OP, as I think they are called, Hazardous Opinion of what is viable and not viable, and nothing that has been said to the Government suggests that this is technically not viable, although it may require the movement of certain things which may be within a radius of a particular area, and fitting those concentric circles into what is Gibraltar is part of the art, as he knows, of being in Government.

**CHIEF MINISTER**

**Q416/2014  
Nature Group Company –  
DPC application; extension of agreed terms**

150 **Substitute Clerk:** Question 416, the Hon. Mrs I M Ellul-Hammond on behalf of the Hon. J J Netto.

**Hon. Mrs I M Ellul-Hammond:** Mr Speaker, given the recent announcement by the Nature Group Company to extend the terms of the granting of its application from the DPC from storing to treating oil, will the DPC review the original application and will the Government make clear what its position is in relation to this matter, given that there are two Ministers who are members of the DPC?  
155

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

**Chief Minister (Hon. F R Picardo):** Mr Speaker, one is tempted to think that the first part of the question is actually addressed to the DPC.  
160

Mr Speaker, the DPC deals with all building, development and planning issues before it, based on the applications before it. If applicants want to make any change to any consent to build or develop, granted by the DPC, they need to apply to the DPC for that change. Until they do, whatever they may say about their intentions, they would be acting illegally if they went outside such consent to construct or use land as may have already been granted.  
165

In any event, Mr Speaker, the issue of oil treatment or oil storage would require a specific licence, not from the DPC, but from the Port Licensing Committee which does not include any Ministers.

**Q417/2014  
Gibraltar Fair –  
Naval Grounds; parking facilities available**

**Substitute Clerk:** Question 417, the Hon. S M Figueras.

**Hon. S M Figueras:** Mr Speaker, can the Government confirm what plans are in place for the temporary, or permanent as the case may be, relocation of the coach park and associated parking and facilities during the use of the Naval Grounds for the fair this year?  
170

**Substitute Clerk:** Answer, the Hon. the Chief Minister.  
175

**Chief Minister (Hon. F R Picardo):** Mr Speaker, plans are being put in place to provide an alternative set down area for the week of the fair this year, in a manner designed to inconvenience the public as little as possible, and details of which will be made public nearer the time.

**Q418-419/2014  
Legal consultants –  
Drafting services; costs incurred**

**Substitute Clerk:** Question 418, the Hon. S M Figueras.  
180

**Hon. S M Figueras:** Mr Speaker, can the Chief Minister provide details to this House, further to answers to Question 338/2014, of the work done by legal consultants providing drafting services to the Government since December 2011?

**Substitute Clerk:** Answer, the Hon. the Chief Minister.  
185

**Chief Minister (Hon. F R Picardo):** Mr Speaker, I will answer this question together with Question 419.

**Substitute Clerk:** Question 419.

190 **Hon. S M Figueras:** Mr Speaker, can the Chief Minister provide details to this House of all legal costs incurred by Government-owned companies since January 2012 on a month-by-month basis, detailing the law firm/lawyers to which payment has been made and details of the matters in respect of which such payments have been made?

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

**Hon. Chief Minister:** Mr Speaker, the information requested in Question 418 has now been uploaded on the Government website.

200 In relation to Question 419, the information has not previously been provided in this House by any Administration, I understand. I nonetheless now hand the hon. Member a statement with the information requested and I have asked that it now be added to the Government website in the area that deals with legal fees.

Answer to Question 419			
	Company	Description	Payments
<b>2012</b>			
<b>January</b>	Gibraltar Land Holdings Limited	Corbett & Co	(550.00)
	Gibraltar Land Holdings Limited	Triay Stagnetto Niesh	(26,446.92)
	Gibraltar Residential Properties Limited	Triay & Triay Lawyers	(610.00)
	Gibraltar Residential Properties Limited	Triay Stagnetto Neish	(235.00)
<b>Total</b>			<b>(27,841.92)</b>
<b>February</b>	Gibraltar Residential Properties Limited	Corbett & Co	(870.00)
	Gibraltar Residential Properties Limited	Triay & Triay Lawyers	(4,931.70)
	Gibraltar Residential Properties Limited	Triay Stagnetto Neish	(235.00)
<b>Total</b>			<b>(6,036.70)</b>
<b>March</b>	Gibraltar Residential Properties Limited	Triay & Triay Lawyers	(2,002.50)
	Gibraltar Residential Properties Limited	Triay Stagnetto Neish	(2,974.50)
<b>Total</b>			<b>(4,977.00)</b>
<b>April</b>	GCP Investments Limited	Triay Stagnetto Neish	(114,646.00)
	Gibraltar Residential Properties Limited	Attias & Levy	(2,000.00)
	Gibraltar Residential Properties Limited	Triay & Triay Lawyers	(1,507.50)
	Gibraltar Residential Properties Limited	Triay Stagnetto Neish	(4,223.32)
<b>Total</b>			<b>(122,376.82)</b>
<b>May</b>	Gibraltar Land Holdings Limited	Corbett & Co	(250.00)
	Gibraltar Land Holdings Limited	Triay Stagnetto Neish	(31,179.45)
	Gibraltar Residential Properties Limited	Corbett & Co	(240.00)
	Gibraltar Residential Properties Limited	Triay & Triay Lawyers	(1,615.32)
<b>Total</b>			<b>(33,284.77)</b>
<b>June</b>	Gibraltar Residential Properties Limited	Attias & Levy	(175.00)
	Gibraltar Residential Properties Limited	Triay & Triay Lawyers	(2,495.00)
	Gibraltar Residential Properties Limited	Triay Stagnetto Neish	(235.00)
<b>Total</b>			<b>(2,905.00)</b>
<b>July</b>	Gibraltar Land Holdings Limited	Triay Stagnetto Neish	(3,097.50)
	Gibraltar Residential Properties Limited	Attias & Levy	(475.00)
	Gibraltar Residential Properties Limited	Triay & Triay Lawyers	(3,420.00)
	Gibraltar Residential Properties Limited	Triay Stagnetto Neish	(235.00)
	Westside Two Co-Ownership Company Limited	Triay Stagnetto Neish	(275.00)
<b>Total</b>			<b>(7,502.50)</b>
<b>August</b>	Gibraltar Residential Properties Limited	Attias & Levy	(450.00)
	Gibraltar Residential Properties Limited	Triay & Triay Lawyers	(1,827.50)
	Gibraltar Residential Properties Limited	Triay Stagnetto Neish	(470.00)
<b>Total</b>			<b>(2,747.50)</b>
<b>September</b>	Gibraltar Residential Properties Limited	Attias & Levy	(225.00)
	Gibraltar Residential Properties Limited	Triay & Triay Lawyers	(715.00)
	Gibraltar Residential Properties Limited	Triay Stagnetto Neish	(1,713.00)
<b>Total</b>			<b>(2,653.00)</b>
<b>October</b>	Gibraltar Bus Company Limited	Hassans	(9,026.35)
	Gibraltar Residential Properties Limited	Attias & Levy	(300.00)
	Gibraltar Residential Properties Limited	Ellul & Co	(200.00)
	Gibraltar Residential Properties Limited	Triay & Triay Lawyers	(2,686.00)
	Gibraltar Residential Properties Limited	Triay Stagnetto Neish	(3,241.00)
<b>Total</b>			<b>(15,453.35)</b>
<b>November</b>	Gibraltar Bus Company Limited	Verralls	(725.00)
	Gibraltar Residential Properties Limited	Attias & Levy	(150.00)
	Gibraltar Residential Properties Limited	Triay & Triay Lawyers	(2,150.00)
	Gibraltar Residential Properties Limited	Triay Stagnetto Neish	(4,484.00)
<b>Total</b>			<b>(7,509.00)</b>
<b>December</b>	Gibraltar Residential Properties Limited	Attias & Levy	(100.00)
	Gibraltar Residential Properties Limited	Triay & Triay Lawyers	(650.00)
<b>Total</b>			<b>(750.00)</b>
<b>Year total</b>			<b>(234,037.56)</b>
<b>2013</b>			
<b>January</b>	Gibraltar M & E Services Limited	Hassans	(32,250.00)
	Gibraltar Residential Properties Limited	Dunham Guest & Lyons Solicitors	(4,031.00)
<b>Total</b>			<b>(36,281.00)</b>
<b>February</b>	Gibraltar M & E Services Limited	Hassans	(7,675.38)
	Gibraltar Land Holdings Limited	Triay Stagnetto Neish	(4,917.00)
	Gibraltar Residential Properties Limited	Triay & Triay Lawyers	(1,130.00)
<b>Total</b>			<b>(13,722.38)</b>
<b>March</b>	Gibraltar Bus Company Limited	Verralls	(8,585.00)
	Gibraltar Land Holdings Limited	Triay Stagnetto Neish	(2,033.50)
	Gibraltar Residential Properties Limited	Triay Stagnetto Neish	(10.00)
<b>Total</b>			<b>(10,628.50)</b>
<b>April</b>	Gibraltar Land Holdings Limited	Triay Stagnetto Neish	(17,945.00)
	Gibraltar M & E Services Limited	Hassans	(22,441.78)
<b>Total</b>			<b>(40,386.78)</b>
<b>May</b>	Gibraltar Bus Company Limited	Verralls	(3,725.00)
	Gibraltar Commercial Property Company Limited	Attias & Levy	(150.00)
	GCP Investments Limited	Hassans	(25,000.00)
<b>Total</b>			<b>(28,875.00)</b>
<b>June</b>	Gibraltar Bus Company Limited	Hassans	(2,000.00)
	Gibraltar Bus Company Limited	Verralls	(2,448.00)
	Gibraltar Residential Properties Limited	Triay & Triay Lawyers	(982.00)
<b>Total</b>			<b>(5,430.00)</b>

<b>July</b>	Gibraltar Bus Company Limited	Hassans	(1,148.00)
	Gibraltar Residential Properties Limited	Triay & Triay Lawyers	(1,187.50)
<b>Total</b>			<u>(2,335.50)</u>
<b>September</b>	Credit Finance Company Limited	Hammerstrom Puhakka Partners, Attorneys Ltd	(14,413.91)
<b>Total</b>			<u>(14,413.91)</u>
<b>October</b>	Gibraltar Bus Company Limited	Verralls	(3,430.00)
<b>Total</b>			<u>(3,430.00)</u>
<b>November</b>	Gibraltar Bus Company Limited	Isolas	(4,490.00)
	Gibraltar Bus Company Limited	Verralls	(4,755.00)
	Gibraltar Commercial Property Company Limited	Attias & Levy	(150.00)
	Gibraltar Residential Properties Limited	Triay & Triay Lawyers	(525.00)
<b>Total</b>			<u>(9,920.00)</u>
<b>December</b>	Gibraltar M & E Services Limited	Hassans	(39,573.00)
	Gibraltar Residential Properties Limited	Triay & Triay Lawyers	(450.00)
<b>Total</b>			<u>(40,023.00)</u>
<b>Year Total</b>			<u>(205,446.07)</u>
<b>2014</b>			
<b>January</b>	GCP Investments Limited	Triay Stagnetto Neish	(36,664.60)
	GCP Investments Limited	Hassans	(260.00)
	Kings Bastion Leisure Centre Company Limited	Hassans International Law Firm	(3,520.00)
<b>Total</b>			<u>(40,444.60)</u>
<b>February</b>	Gibraltar Bus Company Limited	Verralls	(5,725.00)
	Gibraltar International Bank Limited	Hassans	(38,830.00)
<b>Total</b>			<u>(44,555.00)</u>
<b>March</b>	Credit Finance Company Limited	Hassans	(75,010.00)
	GCP Investments Limited	Triay & Triay Lawyers	(555.00)
	GRP Bishop Fitzgerald Company Limited	Triay Stagnetto Neish	(8,650.65)
<b>Total</b>			<u>(84,215.65)</u>
<b>April</b>	Gibraltar Bus Company Limited	Verralls	(3,600.00)
<b>Total</b>			<u>(3,600.00)</u>
<b>Year Total</b>			<u>(172,815.25)</u>
			<u>(612,298.88)</u>

210

**Hon. S M Figueras:** Mr Speaker, in relation to the Hon. the Chief Minister's reply to Question 418, I checked the Government website to see what information was available at the time when I filed the questions and the only information that had been provided had been provided in relation to 2014 and there were entries for January to April, where there were only two recipients or beneficiaries of Government contracts in that context.

215

There was no information that I was able to find for 2013 and 2012, and I wonder whether perhaps he can confirm whether this is something that is being worked on or whether it is not intended to provide that information?

**Hon. Chief Minister:** No, Mr Speaker, the intention is not just to provide that information. I understand it is now on line and going back to 2008.

220

**Hon. S M Figueras:** Yes, Mr Speaker, could the Hon. the Chief Minister tell us when that information was uploaded?

**Hon. Chief Minister:** No, Mr Speaker, but I understand it is now on line.

225

**Hon. S M Figueras:** Mr Speaker, the point that I am seeking to make is that the information was not available when the question was asked and I would therefore expect that the information be provided in this House accordingly. If there is any reason why that should not be the case, I would be glad to hear it.

230

**Hon. Chief Minister:** Mr Speaker, the information that I have from the people who prepare my questions for me... or my answers for me, is that the information was on line and so I am afraid I do not have it with me.

235

If he could quickly check on his Mac Apple, then he can check and let us know whether it is now on line and he has it available. If he wants me to go outside and print it out for him and provide a copy across the floor of the House, because he says it was not available when he asked the question, then so be it. I have no difficulty in doing so at the end of this session.

**Mr Speaker:** May I help?

The hon. Member I think can check the Government website and I will allow him to ask any supplementaries that he feels are necessary.

240 Likewise, with respect to the very detailed supplement to the answer to the next question, which is very lengthy and detailed, I think we should move on to the next question, which is in the name of Mr Bossino, and likewise you can come back and ask any supplementaries when you have studied the information circulated by the Chief Minister.

245 **Hon. S M Figueras:** Mr Speaker, I am grateful for the suggestion certainly, but the Hon. the Chief Minister knows that that is not the point. I have a time stamped screen grab of the relevant Government website when I ask the questions and the information was not there when I asked the question and therefore should have been provided in this House. It really is as simple as that.

250 Now, if I have no option but to review the information, which I can easily do on my MacBook Air (*Laughter*) I am happy to do so, Mr Speaker.

**Mr Speaker:** I am not ruling or anything like that.

255 No, the only thing is that the hon. Member when he drafted the question and he checked the website, it was not there. It could well be that by the time whoever drafted the answer for the Chief Minister, the person who was dealing with drafting an answer... it may have been on the website. That is possible.

**Hon. Mr S M Figueras:** In that case, Mr Speaker, I would be grateful for the opportunity to review the information and revisit the issue of supplementaries at a later stage today.

**Mr Speaker:** Of both.

**Q420/2014**

**Juan Verde –**

**Connection to companies tendering for Government projects**

260 **Mr Speaker:** Question 420.

**Substitute Clerk:** Question 420, the Hon. D J Bossino.

265 **Hon. D J Bossino:** Can the Chief Minister please state whether Juan Verde has or has had any connection with any company which has so far tendered for any Government projects?

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

270 **Chief Minister (Hon. F R Picardo):** Mr Speaker, it is clear that Members opposite have something against Mr Juan Verde. It is difficult to see why that should be the case.

In respect of this question in particular, Mr Speaker, the answer is that it is impossible for the Government to answer this question. How could we possibly know with any certainty if Mr Verde has had any connection with any of the many companies that tender for Government work? We would have to ask Mr Verde to reply or each company that has tendered for Government work.

**Q421-422/2014**

**Jason Cruz –**

**Details of role in Gibraltar's London and Hong Kong offices**

275 **Substitute Clerk:** Question 421, the Hon. D A Feetham.

**Hon. D A Feetham:** Mr Speaker, can the Chief Minister please state whether Mr Jason Cruz will play any role in the Gibraltar Office in London?

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

**Chief Minister (Hon. F R Picardo):** Mr Speaker, I will answer this question together with Question 422.

**Substitute Clerk:** Question 422.

285 **Hon. D A Feetham:** Mr Speaker, can the Chief Minister please provide details of the remuneration and any other employee benefits agreed with, or intended to be provided, to Mr Jason Cruz in respect of his position in the Gibraltar Office in Hong Kong, and in respect of any position he may have in relation to the London Office?

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

**Hon. Chief Minister:** Mr Speaker, Jason Cruz is one of those Gibraltarians who has done extraordinarily well outside of Gibraltar. He is the sort of man we as a community are justly proud of. I cannot emphasise enough how happy this Government is that he is now working for Gibraltar in the highly competitive market that is South East Asia.

295 Jason has worked for almost 20 years in Hong Kong's commercial sector. His family has lived in Hong Kong for almost 40 years and enjoys an excellent reputation and an excellent network of relationships which will happily now accrue to the benefit of Gibraltar.

300 Jason was a Director of Cushman and Wakefield in Hong Kong, no mean feat in what is the world's largest privately-owned commercial real estate firm, and recognised as leaders in their field, who have vast amounts of experience in working with over half of the Fortune 500 companies.

In that role, Jason has been responsible for the completion of commercial transactions totalling over US\$1 billion. Indeed, it is not just the Gibraltar Government that is justly proud of him, for Jason's achievements have been recognised by the Royal Institute of Chartered Surveyors for the most significant commercial transaction in Hong Kong in 2013. Well done that Gibraltarian. Now, that is something for the whole of Gibraltar to be proud of, Mr Speaker.

305 Jason was co-Head of Asia Pacific of Cushman and Wakefield's Banking and Financial Services practice between 2011 and 2013, and previously head of Asia Pacific for Cushman and Wakefield's Global Alternative Investment Services, working with hedge funds and private equity firms.

310 Mr Cruz is presently Hong Kong SAR representative and Deputy United Kingdom representative. He will also become United Kingdom representative on 1st June 2016 or such other date as may be mutually agreed between him and the Government.

315 His remuneration is £130,000 per annum with an allowance for housing, education of his children and an annual return flight to Gibraltar.

**Hon. D A Feetham:** Mr Speaker, can he provide more information, in terms of the allowance that has been agreed for this gentleman's education of his children and any other allowances that may have been agreed with this particular gentleman? Does he have a figure in mind or is it going to be elastic in terms that Mr Cruz is to find a suitable school for his children and the Government has agreed to pay? There must have been already an agreement in relation to a sum as an allowance for this gentleman's education of his children and any other allowance that the Government may have agreed with him.

**Hon. Chief Minister:** Mr Speaker, it is not something I intend to get involved in.

325 What has happened is that there is an agreement that an allowance will be made for housing and for education of his children. I do not intend to be looking up the cost of accommodation in London or the cost of schools in London and Hong Kong as that is going to be done by the Chief Secretary, who is responsible for those things. I assume that it will be brought to me just for final approval before it is agreed, but it is an amount that is reasonable in the eyes of the Chief Secretary who will be having these discussions with him.

330 But, Mr Speaker, I am conscious of the fact that a number of people have wanted to congratulate Mr Cruz on having taken the appointment for Gibraltar, including Mr Michael Feetham, who was a Minister with the GSLP between 1988 and 1996 who publically said on Twitter that he was very happy for Jason having accepted the role.

335 **Hon. D A Feetham:** Mr Speaker, I am very glad and indeed I found the exposé in relation to this particular gentleman's experience very interesting indeed; but in the words of Jessie J – he is a great fan of Jessie J – I am interested in the price tag that comes attached to this particular individual's role in Hong Kong and also in London.

340 The hon. Gentleman says this is a question for the Chief Secretary and he does not get involved in these things, but of course he is accountable to this House for taxpayers' money and this is taxpayers' money. Perhaps I might be able to jog his memory. The word is that this gentleman is being paid £200,000. Would I be far off in relation to that particular figure?

**Hon. Chief Minister:** Mr Speaker, yes, sir, very far off. This gentleman is being paid £130,000 and then there is an amount for allowance on housing and education.



345 Mr Speaker, if housing costs £70,000, well look, I can only... the only other reference to an allowance for housing is an allowance for housing that was agreed by them for the person they sent to London to be Director of the London office where the amount might have been... I cannot remember what the exact amount was. It was brought to me for ticking off at one stage. I am reminded by the Hon. Mr Bossano, who tends not to get things wrong in respect of numbers, that what they might have agreed might have been in the region of  
 350 £1,000 a week, which might have meant £52,000 a year. So, Mr Speaker, if what they are doing is applying the standards of the lavish accommodation that they thought was appropriate and adding it to £130,000, then they are already £182,000; but it may be that in Hong Kong the accommodation is much cheaper or that Mr Cruz does not want to live in St. James' Square, where they thought it was appropriate to put the person they sent to London at £1,000 a week.

355 I certainly do not know what rents are in London, but this man is the sort of man that we need doing our work in Hong Kong. He is the sort of man who may do very well for us in London also in the future. If he is quantifying the package at £200,000, so be it. I do not have any details as to what the housing allowance proposed to be agreed by the Chief Secretary is or what the education allowance is going to be. It is not that I am trying to hide anything. If he wants to ask me in a couple of months, I guess that by then it will have  
 360 been agreed and then I can give him the exact figure because I will ask the Chief Secretary, but I am not the person in the driving seat of agreeing it and neither would I ever recommend that the Chief Minister should be involved in looking at that sort of detail of one particular civil servant.

**Hon. D A Feetham:** Mr Speaker, I have to say I find that very odd indeed, bearing in mind that no one would actually agree to take on a particular post unless all the major details of his contract had actually been agreed. But he says that something as central, no doubt for Mr Cruz, as accommodation allowance and an allowance for the education of his children has not been agreed, well, so be it. But even on the figures that the hon. Gentleman is talking about, probably my figure of £200,000 a year is probably a conservative estimate, because if we are talking about £50,000 for accommodation alone, bearing in mind that this gentleman has a family and the previous incumbent, if I can call him that, does not have a family... well  
 370 £200,000 is probably short.

I do not want to have a controversy across the floor of this House this afternoon. If I write to him about this, will he undertake to provide me with the information in correspondence? I just want the information. I do not care whether he provides it across the floor of this House or in correspondence.

375 **Hon. Chief Minister:** Mr Speaker, he says he does not want to cause controversy after having tried to cause it. It is like every olive branch he offers: it is littered with thorns.

Mr Speaker, the reality is that the previous incumbent, who did not have a family, may be one of two people. I do not know whether he is describing Mr Poggio, who has long been in London, or Mr Canessa, who went to London. Mr Canessa is no longer in London. His salary was in the region of £70,000. His housing allowance was in the region of £52,000. You are already at £130,000 before the many flights that Mr Canessa was entitled to under his arrangement to Gibraltar. You may be very close to £170,000. He is no longer going to be doing that job. We save that money. So we save £170,000-odd in respect of Mr Canessa and Mr Cruz, who has no previous incumbent, because we have never had anybody in Hong Kong, is by his calculation, he  
 380 says, going to cost us £200,000. Well, look, Mr Speaker, then we are really arguing over, by his calculation, about £30,000, if Mr Canessa's package was not worth perhaps even slightly more. I do not know. I cannot actually put my finger on what Mr Poggio's package is worth, and I do not know whether anybody ever has, but anyway let us just assume that it is in the region of the same sort of cost to have that level and that standard of representation in the United Kingdom.

390 Mr Speaker, I am a huge fan of Albert Poggio – a huge fan of Albert Poggio. I believe Mr Poggio was instrumental in defeating joint sovereignty. I believe he has the ability to communicate with well on nigh seven eighths of the Chamber of the House of Commons at the drop of a hat and he is a huge asset for Gibraltar. But, Mr Speaker, he and I have had to have a serious conversation about the fact that he is not getting any younger and Gibraltar needs representation of that standard.

395 So can I put it to him, Mr Speaker, that if he is so concerned about cost, he applauded the fact that given what the cost of Mr Canessa will have been, and what the cost of Mr Poggio would have been, if in the long term what we have is Mr Cruz in London, that is actually an overall saving with a person, who he has seen, is imminently well qualified to represent us today in South East Asia and in the future in London. The cost actually may represent a full saving. As to the detail of the Housing and the Educational allowance, I am very  
 400 happy, Mr Speaker, for him to either write to me or to ask me again and when that amount is determined, then I am quite happy to write to him and give him the detail or answer his question across the floor of the House.

I put it to him however, Mr Speaker, that if he wants to be the CEO of this great corporation that we call Gibraltar, the shareholders, although expect to hold him to account and they expect him to get the best value for money, do not expect him to be involved in working out what the cost of a flat in London is or what the

cost of a public school in Hong Kong is. He needs to be looking at the broader picture. Sometimes he does not see the broader picture because he is stuck in the detail.

410 **Hon. D A Feetham:** Mr Speaker, I have to say that the hon. Gentleman judges me by different standards than he used to employ himself when he was on this side of the House. He used to lambast his predecessor for using the private suite at Heathrow for £1,500 a go. Now he is lambasting me because I am asking questions that could cost the taxpayer between £70,000 and £100,000, but that is up to the hon. Gentleman.

415 Can I ask him two supplementaries arising from the answers that he has given? The first one is, so the intention is for Mr Cruz to effectively replace both Mr Poggio and also Mr Canessa? And the second one is why this particular post was not advertised in order to determine whether there were other candidates that might have been better than Mr Cruz?

420 No doubt Mr Cruz has his qualities, but this being such a central and important role, both in Hong Kong and in London, we think that it ought to have been advertised, at the very least it would have given the Government a choice of candidates, rather than just simply hand picking one individual *a dedo*, so to speak.

425 **Hon. Chief Minister:** Mr Speaker, it is not that I used to lambast the Hon. the previous Leader of the House, the Hon. Sir Peter Caruana – (*Interjection and laughter*) I used to simply say that to use the lounge every time he went to London was excessive and that of course he should use it on particular occasions if he needed to, but not on every single occasion.

430 But, Mr Speaker, let us be clear. It is not that I am not responsible for the £70,000 to £100,000 that *he* estimates that the allowance for Mr Cruz may be – it may be more, it may be less. It is that the principle of an allowance is agreed and the detail of it is to be pursued by a third party, and I do not think the Chief Minister of Gibraltar, with all of the issues that any Chief Minister of Gibraltar has to deal with, should be involved in negotiating the minutiae issue of contracts.

435 He is right if he were to say, but he does not, that I used to lambast the Hon. the previous Chief Minister for being involved in that level of detail and not allowing people to do their jobs, but look, so be it... everybody has a different way of doing things. I happen to think that the right way to do them is the way I am doing them, otherwise I would not be true to myself or doing the job that Gibraltar, I think, deserves to be done.

440 Mr Speaker, he has asked me the question why did we not advertise. Why did we not interview and why did we not perhaps choose somebody who might be even more qualified to do this job than Jason Cruz? Well, Mr Speaker, because I took a leaf out of the books of Joe Bossano and Peter Caruana. I know that he has loved them and criticised them both at different times in his political career, but when it comes to precedent, precedent is precedent. Mr Poggio was appointed by Joe Bossano without an interview process or without choosing to advertise the post. Mr Canessa was appointed by Mr Caruana overnight without choosing to advertise or propose to see whether others were appointed.

445 In the same way, Mr Speaker, as the Chief Secretary is appointed, the Financial Secretary is appointed and the Chief Technical Officer is appointed, there are some posts which are simply within the purview of the Chief Minister. I actually think it is just a very few and perhaps those four are the only ones. So in this instance, Mr Speaker, I was simply following the procedure established before. I know that the fact that Sir Peter did it is not going to stop him from criticising, because he has become his biggest critic.

450 **Hon. D A Feetham:** Mr Speaker, before I ask another supplementary, he has not answered the first supplementary, which was whether it is the intention of the Government that Mr Cruz take over *both* the roles of Mr Poggio and also Mr Canessa.

**Hon. Chief Minister:** Mr Speaker, yes, thank you for that opportunity. I am sorry I missed that first limb of his supplementary.

455 Mr Canessa is back in Gibraltar. There were never two people in London. The advent of two people in London arose from circumstances, which I think were not happy ones and led to a situation where there were two captains trying to steer a ship. In any organisation it is important that there only be one captain. We have now corrected that situation: Mr Poggio is in London and Mr Canessa is back in Gibraltar. As I told him before, Mr Speaker, and I am surprised he did not deduce it from what I said, the long-term aim is that Mr Cruz should take over from Mr Poggio in the United Kingdom.

460 As I said before, and I say again, I am a huge fan of Mr Poggio, but he is getting no younger and therefore we need to ensure that we plan for a future when Mr Poggio decides that he wants to enjoy his retirement. He is almost 70, Mr Speaker. Mr Poggio looks very well for his age – I have to say that in case he reads *Hansard* – but actually 70 is the new 60 these days. Mr Poggio does not look almost 70, but he is literally almost 70 years old and therefore at some stage those who are in their seventies may wish... I know there are some who are less resilient than others (*Laughter*) but some people in their seventies have indicated that they want a future where they do not work five days a week and they are not...

In fact, if I may say so, the Office of Representative of Gibraltar in the United Kingdom is not a nine to five, five days a week job, it is a very intensive job involving weekends etc. Therefore what we are doing is planning for the future, and in the future if this Administration is able to see through our plans, Mr Cruz will have taken over from Mr Poggio. Mr Poggio today is the only person representing us in London. Mr Canessa is back in Gibraltar... or will be back in Gibraltar on 23rd June, I am told by Mr Isola, working in the Ministry for Financial Services.

**Hon. D A Feetham:** Yes, Mr Speaker, the hon. Gentleman says that I have loved and criticised both the hon. backbencher and also the hon. the Father of the House in equal or less equal measure at different times. I have to remind the hon. Gentleman that of course he used to talk to me in less than becoming terms of the hon. the Father of the House, almost 10 years ago when we were talking about and planning as to how we could oust the hon. the Father of the House.

**Mr Speaker:** But we are not going to go into that, are we?

**Hon. D A Feetham:** No, we are not. Absolutely not, Mr Speaker. But, Mr Speaker, does the Hon. the Chief Minister (*Interjection*) not recognise that there is a fundamental distinction between the example that he has drawn, which is Mr Canessa and Mr Poggio on the one hand and Mr Cruz on the other in this sense, that Mr Canessa is a public servant and Mr Poggio was in fact appointed – I think I am right in saying – by the GSLP Administration and the policy of the GSD Government was a continuation of effectively that appointment that was made? Whereas here, what we have is a new appointment which has not gone out in any form of advertorial to see whether the Government is obtaining the best candidate for this particular job, which is highly remunerative, with benefits, let me repeat, at least we think £200,000, and therefore there is a distinction to be drawn in relation to the two examples that he has given.

**Hon. Chief Minister:** Mr Speaker, I forgive him for disclosing the least indiscreet of my youthful indiscretions. (*Laughter*) But anyway, if anybody is reading history, they might think that at least I stayed and saw the job through with a smile, rather than with a dagger... but never mind.

Mr Speaker, the position is very simply this. Whether Mr Canessa was a public servant or not, he was simply appointed *a dedo* to London. The vacancy was not opened internally in any way. There was absolutely no question of others being able to apply for the job.

Mr Poggio was appointed by Mr Bossano and that appointment must have been a good one because it was seen through for 15 years – despite their criticisms before they were elected – by the previous administration and very well done too, because it saw Gibraltar out in great measure of the joint sovereignty issues that we faced in 2003.

Mr Speaker, Jason Cruz is an outstanding individual. We think we have made the right choice. We made it because we came across an individual who had all the qualifications that anybody could have thought were necessary for this job.

Does he really think that what we should have done is advertise in the *South China Morning Post* ‘Wanted: Gibraltarian. Must be sociable, able to manage London office and have done largest transaction in Asia last year?’ (*Laughter*) Is that what he is really proposing, because, Mr Speaker, I must tell him that of all the things that he needs to be analysing and putting under the microscope, this decision, which is the right decision for Gibraltar, because Gibraltar by the way is falling behind in representation in Asia when many of our other overseas territories competitors as financial services hubs have got representation there already? It is a decision long overdue and it is the right decision with the right individual in post at the right level of remuneration. If he says he would not have done it this way, so be it.

The problem he has got, Mr Speaker, is 16 years of track record of his party in Government having done the opposite – the complete opposite. Appointments, which he now calls *a dedo*, not at top levels like this where you can point to previous administrations having done similar or identical things in just a handful of posts along the top ridge of appointments to the public service, but throughout the sector. Or does he really... is he such a glutton for punishment that he wants me to remind him of the people appointed at the new terminal in Gibraltar Airport simply out of –

**Mr Speaker:** I would rather the Chief Minister did not and we get on with the business in hand, please.

**Hon. Chief Minister:** Mr Speaker, you are absolutely right. I would rather, myself, not have to do that.

525 **Hon. D A Feetham:** Mr Speaker, does he not recognise that really there is a fundamental distinction here? Mr Canessa is a public servant who has been deployed to London. This individual is not a public servant, and he has been appointed directly by the Government.

Does he not also recognise that the examples that he has given are, with respect to him, ridiculous examples about advertising in the *South China Times* or whatever. There may well be people in the United Kingdom or elsewhere, English speaking... they do not have to necessarily be Gibraltarians, although I accept  
530 that if you are going to have two candidates of equal ability and equal standing, it is always preferable to employ a Gibraltarian over somebody from the outside.

But we are talking about the economic driver, economic development for Gibraltar and that he could have advertised in the United Kingdom. There may well be candidates in the United Kingdom or elsewhere who may have been able to do this particular role and would have been far more qualified, but what the  
535 Government has done is effectively deprived itself of that opportunity. Does he not recognise the distinction?

Can he at least satisfy me that this has nothing to do with the fact that Mr Cruz is very supportive of the Hon. the Chief Minister and his Party?

540 **Hon Chief Minister:** Mr Speaker, I knew it had to come, the allegation somehow that there is impropriety; it always is ever thus with the hon. Gentleman, Mr Speaker. Somehow it is connected to you, Fabian and somehow it is connected to the Party.

Mr Speaker, when – may he rest in peace – Mr Cantos was appointed as the Director of Media Relations for the Government of Gibraltar weeks after the 1996 Election, there was no interview for that post. When Mr Golt was appointed, there was no interview for that post. When Mr Flower was appointed, there was no  
545 interview for that post, Mr Speaker. Was it because they were particularly close to the previous Administration? I know at least that Mr Flower and I will laugh about the fact that I have had to mention him in *Hansard* again when I see him later.

Mr Speaker, the hon. Members opposite have established a course of dealing in the past 16 years where it is impossible to distinguish their appointments from those that supported them. Most of those appointments were *a dedo*. We have established a criteria. We will not in any way be involved in simply appointing people whether they are GSLP or otherwise. We will do this in the proper way. There will be interview boards where  
550 necessary, but in some instances, at the very top level, we will continue to exercise the prerogative that a Chief Minister is able to choose who represents Gibraltar as Chief Secretary, as Chief Technical Officer, as Financial Secretary, as our representative in London and our representative officers elsewhere. Mr Speaker, the hon. Gentleman may not like that. He may be saying, but I do not know if he is, that if he were elected, he would always interview for the posts. Well, Mr Speaker, that is a matter for him, he can develop that policy if he wishes, but he must if he does so say that he eschew the actions of the previous GSD Administration and adds that to the many critiques he is making of the 16 years of Government that previously he had praised as amongst the best.  
555

560 Mr Speaker, I defend the fact that we have chosen Jason Cruz and I do not believe there is anybody out there who could do the job. One of the qualifications we would be looking for is that the person be a Gibraltarian, because in my view, Mr Speaker, to represent Gibraltar in a representative office, in London, or in South East Asia or anywhere else in the world, not to lobby but to represent, a Gibraltarian is always best and being a Gibraltarian is, in my view, a requirement of the role.

**Mr Speaker:** Next question.

**Q423-425/2014**  
**Lobbying/marketing abroad for Gibraltar –**  
**Consultants; details**

565 **Substitute Clerk:** Question 423, the Hon. D A Feetham.

**Hon. D A Feetham:** Mr Speaker, can the Chief Minister please explain what criteria the Government used to select Holland and Knight Limited Liability Partnership to undertake lobbying work in the United States?  
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**Substitute Clerk:** Answer, the Hon. the Chief Minister.

**Chief Minister (Hon. F R Picardo):** Mr Speaker, I will answer this question together with Questions 424 and 425.

575 **Substitute Clerk:** Question 424.

**Hon. D A Feetham:** Can the Chief Minister please provide details of the work undertaken by GSLP Member Glyn Ford for the Government since it started to pay him as a consultant, and will Mr Ford continue as a consultant after the European Elections?

580 **Substitute Clerk:** Question 425.

**Hon. D A Feetham:** Can the Chief Minister please provide a list of consultants currently working for the Government on lobbying or marketing for Gibraltar abroad?

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

**Hon. Chief Minister:** Mr Speaker, as usual when choosing service providers we looked at various entities in relation to Holland and Knight, who might provide the service. We looked at track record and took references from third parties. We then made the selection and set up a meeting when I was last in Washington.

590 Mr Speaker, in relation to Question 424, the fact that Mr Ford has been a GSLP Member is irrelevant to this Government. We do not choose the people we do business with based on their partisan affiliations, but on their ability and their expertise and if he does not believe me, he might want to ask the question to the person sitting at the end of the row who has been instructed by my Government on various occasions. Indeed, the Government is working with people who have been and some who are still GSD Members, and I do not hear Members opposite asking questions about them, but that demonstrates that we, as a Government, do not consider partisan affiliation to be either a qualifier or a disqualifier when determining who we do business with.

600 Mr Speaker, we will not in any event be taking any lessons on the subject from the party opposite, who exclusively favoured its own people to the exclusion of those who were not their supporters when they were in Government. Mr Ford will continue in his role as part of the bolstering of our lobbying efforts in Brussels. I should add, Mr Speaker, now that the European Election has passed, and he was not returned as a second MEP for Labour. As for the exact work he does, I do not believe sharing information of this nature publically is in the public interest of Gibraltar.

605 Mr Speaker, in respect of lobbying, my answer remains as my earlier answer to Questions 1084/2012 and 429/2013, namely that we will continue the practice of the previous GSD Administration and not provide a breakdown. What we give is in exactly the same form as it was given to us by Members opposite when they were in Administration. I agree with the position of the previous Chief Minister, that sharing information of this nature publically is not in the public interest of Gibraltar.

610 In respect of marketing, other than the UK, US, Hong Kong and Brussels representatives, there are none.

**Hon. D A Feetham:** Mr Speaker, so is he saying that he will be willing to provide me with the information as to what work is being undertaken by Glyn Ford for the Government privately? Is that the position?

615 **Hon. Chief Minister:** Absolutely, Mr Speaker. I offered to do so the first time that they asked about Mr Glyn Ford and the second time that they asked about Mr Glyn Ford, and if he bothers to look at *Hansard*, they said, 'We do not want it privately. You must answer in this House'.

620 But I am delighted, Mr Speaker, to share with him what work is being done for Gibraltar's benefit, but I will do so *privately*.

**Hon. D A Feetham:** My recollection is that it was a different question that I was asking then. In relation to the consultants and the list of consultants, is he also prepared to give me a list of consultants currently working or lobbying abroad for the Government on a private basis?

625 **Hon. Chief Minister:** Is he saying privately?

**Hon. D A Feetham:** Privately. Yes.

630 **Hon. Chief Minister:** Absolutely, Mr Speaker. I have absolutely no difficulty with that at all.

**Mr Speaker:** Next question.

**Q426-427/2014**  
**Radio Bahia/Samuel Fernandez –**  
**Government subsidy; licence to transmit**

**Substitute Clerk** Question 426, the Hon. D A Feetham.

635 **Hon. D A Feetham:** Mr Speaker, can the Government please state whether it is subsidising either directly or indirectly, Radio Bahia and/or Samuel Fernandez and/or any entity associated with him?

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

640 **Chief Minister (Hon. F R Picardo):** Mr Speaker, I will answer this question together with Question 427.

**Substitute Clerk:** Question 427.

645 **Hon. D A Feetham:** Mr Speaker, can the Government please state whether Radio Bahia and/or Samuel Fernandez and or any entity associated with him has applied for any licence or permission in Gibraltar associated with the transmission of radio signals?

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

650 **Hon. Chief Minister:** Mr Speaker, Her Majesty's Government of Gibraltar is not subsidising either directly or indirectly Radio Bahia and/or Samuel Fernandez.

In relation to Question 427, the answer is no in respect of information we have sought and obtained from the Gibraltar Regulatory Authority that regulate these matters.

**Q428-438/2014**  
**Sunborn Hotel/Credit Finance Company Ltd –**  
**Details**

655 **Substitute Clerk:** Question 428, the Hon. Mrs I M Ellul-Hammond on behalf of the Hon. J... no? It is a question posed by Mr Netto and we would like to know who is going to be asking the question. Question 428, the Hon. Mrs I M Ellul-Hammond on behalf of the Hon. J J Netto.

660 **Hon. Mrs I M Ellul-Hammond:** Mr Speaker, can the Government say if during the lifetime of the Sunborn Hotel in its current location, will there be a need to carry out yearly infrastructural or maintenance works, either on land or sea, within the vicinity of the area in order to maintain the environment and/or applicable health and safety conditions and, if so, please state what are such requirements, who will undertake such works and what costs are required on an annual basis?

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

665 **Chief Minister (Hon. F R Picardo):** Mr Speaker, I will answer this question together with Questions 429 to 438.

**Substitute Clerk:** Question 429, the Hon D A Feetham.

670 **Hon. D A Feetham:** Mr Speaker, can the Chief Minister please confirm that all monies due to Credit Finance Company Limited in respect of any Sunborn related loans have been repaid on their original due date?

675 **Substitute Clerk:** Question 430.

**Hon. D A Feetham:** Mr Speaker, can the Chief Minister please state whether the amounts lent by Credit Finance Company Limited to the owners of the Sunborn or in respect of the Sunborn have increased since 5th July 2013?

680 **Substitute Clerk:** Question 431.

**Hon. D A Feetham:** Can the Chief Minister please state whether the owners of the Sunborn or anyone else have made requests for an increase in the amount of Sunborn related loans since 5th July 2013, either from Government, the Gibraltar Savings Bank or any Government-owned or partly-owned company?

685 **Substitute Clerk:** Question 432.

**Hon. D A Feetham:** Mr Speaker, can the Chief Minister please provide details of the total amounts of loans provided by Credit Finance Company Limited as at 31st March 2014, 30th April 2014 and 20th May 2014?

690 **Substitute Clerk:** Question 433.

**Hon. D A Feetham:** Mr Speaker, other than in respect of the commuted pensions of civil servants, Government arrears and other loans, can the Chief Minister please provide details of all payments made by Credit Finance Company Limited as at 31st March 2014, 30th April 2014 and 20th May 2014, broken down by (a) the amount of each payment made in each case whether the payment was made to an individual company or partnership; (b) the date of each such payment; and (c) their purpose?

700 **Substitute Clerk:** Question 434.

**Hon. D A Feetham:** Mr Speaker, can the Chief Minister please state how much has Credit Finance Company Limited paid out in respect of the commuted pensions of civil servants as at 31st March 2014, 30th April 2014 and 20th May 2014?

705 **Substitute Clerk:** Question 435.

**Hon. D A Feetham:** Mr Speaker, can the Chief Minister please provide details as at 31st March 2014, 30th April 2014 and 20th May 2014, of all sums paid by Credit Finance Company Limited to individuals and entities in order to allow them to pay off their debts to Government in respect of Government arrears broken down by (a) the amounts of each loan, indicating in each case whether these loans were provided to an individual, company or partnership; (b) the date such loans were provided; and (c) the type of Government arrears each loan was used to pay for?

715 **Substitute Clerk:** Question 436.

**Hon. D A Feetham:** Mr Speaker, can the Chief Minister please state as at 31st March 2014, how much money the Gibraltar Savings Bank has invested in Credit Finance Company Limited?

720 **Substitute Clerk:** Question 437.

**Hon. D A Feetham:** Can the Chief Minister please state as at 31st March 2014 how much the Government has, either directly or indirectly, invested in Credit Finance Company Limited?

725 **Substitute Clerk:** Question 438.

**Hon. D A Feetham:** Can the Chief Minister please provide a list of all employees of Credit Finance Company Limited as at 31st March 2014?

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

**Chief Minister (Hon. F R Picardo):** Mr Speaker, barely 30 months into Government we have delivered the now operating Sunborn Hotel, which provides the fabulous five-star hotel facility that the Financial Services and the Gaming Industry were saying Gibraltar needed. Now that it is on site and being used, people can see it is a fantastic asset for Gibraltar. A number of conferences have already been organised on board that might not otherwise have been organised in Gibraltar. I understand that others are already planned and booked.

735 The Government's first event aboard Sunborn, the Gala Evening for the Queen's Baton Relay, was a huge success. I trust the Opposition Member for Sport enjoyed his meal as we invite them and do not exclude them from such events as they used to exclude us.

740 The US Trade Mission event, which I was invited to open, was similarly an excellent function that really was to the standard one might expect in any modern European city as was, Mr Speaker, I hasten to add, the event at St. Michael's Cave, catered for by the Elliott Hotel and brilliantly supported by the Royal Gibraltar Regiment Corps of Drums and Band. Both the Leader of the Opposition and the Deputy Leader of the Opposition were invited, but unfortunately were apparently unable to attend.

745 So, on present showing, Mr Speaker, already we were certainly right to bring Sunborn to Gibraltar. The Sunborn Hotel is nonetheless a private facility and it is the responsibility of the owners and operators to ensure it complies with any requisite regulations and laws and the Government has no involvement in this.

Mr Speaker, in answer to Question 429, I am informed that it is indeed the case that all amounts due from all debtors to Credit Finance have been repaid on their due dates.

750 In answer to Questions 430 to 433, the total amount of the loan book of Credit Finance Company Limited, as at the end of March 2014 and at the end of April 2014, stood at £49.4 million. As has already been explained in the House previously, details of individual loans issued by Credit Finance Company Limited will not be given.

755 The total amount paid out to Government pensioners by Credit Finance Company Limited, stood at £21.4 million at the end of March 2014 and £22.6 million at the end of April 2014. The figure, as at 20th May 2014, is not yet readily available in the Treasury. A month end figure will be available.

The details requested in Question 435 remain the same as provided in answer to Question 758/2013 by letter of 23rd November 2013. Mr Speaker, I note that this letter was also copied to you.

760 Mr Speaker, the total amount invested, in answer to Question 436, by the Gibraltar Savings Bank in Credit Finance Company Limited stands at £400 million.

In answer to Question 437, the equity funding to date by the Government in Credit Finance Company Limited stands at £30 million.

Mr Speaker in answer to Question 438, other than the Directors of the company, who are all Government officials, Credit Finance Company Limited has no other employees as at 31st March 2014.

765 Mr Speaker, in order to alleviate the need for the Leader of the Opposition to continue to put recurring questions, I am asking that the information on the total size of the loan book of Credit Finance, the total amount of commutations paid as at the end of each month, the total equity invested by HMGOG in Credit Finance and the amount of any arrears to Government paid by loans from Credit Finance on the terms the information that was previously provided, should be put up on the Government website and updated as appropriate as at the end of each month.

**Hon. D A Feetham:** Mr Speaker, the hon. Gentleman has provided me with the loan book which is nearly £50 million... just short of £49.5 million. He has also provided me with a figure of the payments made by Credit Finance Company Limited in respect of commuted pensions, which stood in April at £26.6 million. Can he confirm that the total amount paid, and there is a distinction... I am not talking about loan book. I am talking about the *total* amount paid by Credit Finance Company Limited in respect of loans, commuted pensions or anything else that Credit Finance has paid out, exceeds, and does he have the figure, exceeds effectively, the £49 point whatever, plus the £26.6 million?

780 Indeed, it is actually one of the questions that I have asked about the payments made, the total payments made by Credit Finance, which the hon. Gentleman has not answered.

**Hon. Chief Minister:** Mr Speaker, I do not think that I have not answered.

785 The loan book, the amount of the commutations... and that is it, Mr Speaker. I think we have had this discussion before. I do not know whether he is specifically asking...that is it. I think we have given, in the exchanges that we have had in the House, what it is that Credit Finance is spending on and I think I have given him every figure.

I do not recognise the figure of £26 million that he has mentioned –

**A Member:** It is £22.6 –

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**Hon. Chief Minister:** It is £22.6 million. That is the figure in respect of commutations. So unless I am missing something or unless I have given him information before, which I am referring to having given before and therefore is not a figure referred to here, I do not think there is anything else to speak of, Mr Speaker.

795 **Hon. D A Feetham:** Mr Speaker, can I draw the hon. Gentleman's attention... this is the danger with bunching up so many questions like this, but can I draw the hon. Gentleman's attention to Question 433? Question 433 asks, other than in respect of commuted pensions of civil servants, Government arrears and other loans, can the Chief Minister please provide details of all payments made by Credit Finance Company Limited?



800 Now, is he saying that effectively all that has been paid out by Credit Finance is its loan book, commuted pensions and payment of, or the provision of these loans to allow for the payment of Government arrears? That is it? There is nothing else?

805 **Hon. Chief Minister:** Yes, Mr Speaker, that is the position, but he is doubling up when he talks about the arrears paid to Government. Those form part of the loan book because they are part of the loans granted by Credit Finance, the purpose of which has been to repay Government arrears. So it is not that there is an additional amount; it is included in the £49.4 million.

810 **Hon. D A Feetham:** So effectively we are talking about £49.4 million, plus the £22.6 million. That is the totality of all payments made by Credit Finance as at the dates that I have asked.

**Hon. Chief Minister:** With the caveat, Mr Speaker, that there may be a figure for May 2014, which will be available at the end of the month.

815 **Hon. D A Feetham:** Mr Speaker, turning to Question 438 and to the employees of Credit Finance Company Limited, it just strikes me that Credit Finance Company Limited is making some very important decisions in relation to what payments are made, what loans are made and what we have is effectively... or is this the position that effectively the people that are making the decisions as to who gets loaned any money or any payments made are just simply the Chief Secretary, the Financial Secretary and the other civil servant  
820 from the Treasury, who are making the decisions between them as to how £400 million is to be effectively invested. Is that the position?

**Hon. Chief Minister:** Mr Speaker, I do not see what it is that surprises him of that because of course we have added the Chief Secretary and somebody else from the Treasury to the position under the Act, whether  
825 it is just the Financial Secretary on his own who can decide how the investments are made with the monies in the Savings Bank.

**Hon. D A Feetham:** Mr Speaker, is it the Government's intention for the entirety of that £400 million that has been invested in Credit Finance to be used as required by – and I hesitate to use the term – his  
830 Government, but that is effectively what the reality of the situation is. Let us just call it Gibraltar Plc, shall we?

**Hon. Chief Minister:** Mr Speaker, we have had this discussion before and he has actually listed every single project in our manifesto and asked us whether we were going to fund it from Credit Finance and we have specifically said no in respect of each of them. So he has his answer, Mr Speaker. We are not going to be using it.

My Government, as he likes to put it, is not going to be using the monies in Credit Finance to finance any of the projects in our manifesto, if that is what he is trying to get at.

840 **Hon. D A Feetham:** Well, but Mr Speaker –

**Hon. Chief Minister:** I know he says it constantly.

845 **Hon. D A Feetham:** Actually, Mr Speaker, yes, he is using this particular money in order to pay for Government expenditure, because the very fact that it is being used to pay off the commuted pensions of civil servants, that is Government expenditure. The very fact that he is also using this particular money in order to allow people to pay off their debts, their arrears to the Government, releases other Government income in fact, and distorts the public finances of Gibraltar, but we are not going to have a debate in relation to this.

850 It just strikes me that £400 million is an awful lot of money that has been caused to be transferred... of savers' money from the Gibraltar Savings Bank into Credit Finance Company Limited and there must be a purpose, because if we are simply talking about loans to the Sunborn, Government arrears and commuted pensions, I do not expect that the payment of commuted pensions is going to escalate to £400 million. I am just asking what the Government's plans are in relation to this £400 million. Why such a colossal sum of money, which now exceeds over a third of the size of the economy, has been invested in this particular  
855 company? What does the Government intend to do?

**Hon. Chief Minister:** He has got the wrong size of the economy, Mr Speaker; it is much bigger than that already.

860 Mr Speaker, let us be very clear, nothing that is being done distorts public finance in any way, because he knows what the numbers are. So if he says this – and I take the words much more elegantly used by the

backbencher – this *flatters* the Government accounts because you are not paying the commutations from the Government accounts, you are paying them from Credit Finance. We have told you what the figure is and so you can simply add it or subtract it from the amounts that you will have seen in the Estimates Book and you can say if you had paid the amount from here, then this is the amount you would have left over. This is not a distortion. This is just asking him to do simple mathematics; but if he is not able to do so, then I suppose then there would be a distortion.

Mr Speaker, we have explained the purpose of Credit Finance before on many occasions. It is intended as a vehicle that will produce the returns required in order to be able to pay the interest that the bank offers – that is the purpose of it. We say repeatedly that we are not paying for any Government projects out of it. Of course, as I have told him that we are paying the commuted pensions out of it, and we have answered all his other questions in respect of specific projects – the housing, the cladding etc. That is the position. He knows that is the position.

The only thing that fascinates me, Mr Speaker, is that it does not stop him – having had the information and having had all the detail – trying to go out and say the opposite to try and create a spectre of fear in people that something is somehow going wrong. But he gets it wrong, Mr Speaker, even when he says this is larger than one third of our economy. Where is he, Mr Speaker? Does he still think that the economy is at £1.2 billion, because that is what it would be if this were larger than one third of our economy. He has had the estimates, Mr Speaker. I tell you what, Mr Speaker, he has had last year's estimates and we have had a debate on last year's estimates and we were above £1.2 billion, so what is he talking about? Can he not do the simple maths?

Mr Speaker, the fact is that the Credit Finance debate has been had. All his questions have been answered. In future, all the information will be available on a monthly basis on the website. He cannot pretend that there is a distortion, because all the information is available to him, but he wants to go out and say the opposite. He wants to talk about a perfect storm, although the clouds have dispersed after 8th December. He wants to talk about there being financial problems, although, Mr Speaker, he knows that today, Community Care, for example, already has not zero, which is what it had the last time that they were in Government until 8th December 2011 and when I am doing like this across the floor, Mr Speaker, I am not saying to him that he did things well, it is that they left Community Care with zero. Today, Community Care has £35 million already, and it is not as if we have a usable cash reserve of £2 million. I am not saying to him, 'Well done. Peace brother', across the floor of the House. I am just reminding him of how much we had left at the end of their last financial year in office: £2 million.

The perfect storm gathered, Mr Speaker, but on the day of the new dawn the clouds dispersed. *(Laughter)* Financially Gibraltar is much better off. Look at the deposits in Community Care. Look at the usable cash reserve. Look at the size of the economy. It is not an amount of which £400 million is more than a third. Look at the facts and then make the argument, that is good politics; but distorting reality, trying to scare people and pretending something else is happening, that is bad politics.

**Hon. D A Feetham:** Mr Speaker, *mea culpa*. I am a complete illiterate – £400 million is just 2% of the size of the economy, it is really miniscule. £400 million is absolutely miniscule in terms of the size of the economy! It is absolutely miniscule.

Mr Speaker, look, the hon. Gentleman has said that the purpose as I understood it, the purpose of this investment was to allow for a return on investment to be made so that, presumably, those debenture holders in the Gibraltar Savings Bank could be paid off and it does not cost the Government money. Because, of course, if the Government is loaning... or the Gibraltar Savings Bank, I beg your pardon, is being lent money and is paying at 5% – and really in the market place at the moment it would be very difficult to actually get in any kind of safe investment, more than 1% I would have thought, the Government is really funding the balance.

Now he is saying, or the purpose as I understood him of this investment of £400 million, is to allow for the Government to pay that back. Now, how does he intend to do it? What super venture does he have, bearing in mind that I have been asking him about inward investment and all he was able to say to me at the beginning of the year was that all those trumpets that he blew in 2011, all that he has attracted is a coin-minting company, how in his miraculous way of dealing with the public finance of Gibraltar... what is he going to be doing with this £400 million to allow for those losses to actually be paid to the Government, or so that there is no loss to the Government?

**Hon. Chief Minister:** Mr Speaker, he wants to have the debate now on Credit Finance again. We have had it many times already.

Look, Mr Speaker, let me remind him of what it was that they used to do when they used to take the money in respect of debentures and offer a return. But first let me tell him that he should not distort – to use his words – what I have said to him in reply.

I have not said that £400 million is a small amount of money. I have not said it is 2% of the size of the economy. He said, Mr Speaker, and he is responsible for his words in this House, that £400 million was more than a third of the size of the economy. That put the economy at £1.2 billion. Our economy is bigger than that. He needs to understand that, otherwise the whole of the premise of the debate is incorrect.

925 So, having established that and assuming that he accepts he was wrong in that remark – but he says things quickly off the cuff without thinking and I accept that and I forgive him – let us move on to understanding what they used to do, because then he might be able to understand what it is that he is criticising.

930 His Government, the GSD under Sir Peter Caruana, used to issue public debt. They used to issue it directly, Mr Speaker – something which has been defended by his predecessor in this House. They used to issue debentures and they used to offer 5%. When they offered 5%, Mr Speaker, what they did was, they took the money from the debenture holder and they spent it on Government projects. They then repaid, from taxpayers' money, the capital and the interest. That is what they did and they have defended that Mr Speaker, which is one of the ways you can structure Government borrowing – perfectly acceptable.

935 There is now, Mr Speaker, the money going into the Savings Bank. The Savings Bank is offering the returns. The Savings Bank, in order not to have to ask the taxpayer for that money in order to pay that return, has got to make those returns in the market. It is making those returns with the money invested in Credit Finance that Credit Finance has applied to the purposes that we have discussed. It may be that Credit Finance does more loans and it may be that Credit Finance does more of these commutations – very good business it is too, very much the returns required are being produced in respect of the amounts already being used for that purpose, full stop. It is quite simple. In that way you produce the return.

940 If you do not invest the balance of the £400 million in anything that produces anywhere near the return, you have to put your hand in your pocket to pay the balance of the investment. That is what we are trying to avoid by making the money work. It is what every institution that takes deposits does – except of course the Savings Bank does it by buying the shares in the redeemable preference shares in Credit Finance in the way that has already been explained.

945 But Mr Speaker, he does not really want to have this this debate; he wants to talk about Credit Finance in pejorative terms in order to scare people, in order to talk about the perfect storm. That perfect storm, Mr Speaker, is not something that is remotely an issue based on reality. It is something that is absolute conjecture, designed by him for political purpose to scare people.

950 **Mr Speaker:** May I warn the Chief Minister and the Leader of the Opposition that they are now beginning to debate. I have been liberal, but I am not prepared to allow it very much longer. They will have an opportunity next month to debate to their heart's content but not this afternoon.

955 I will allow the Leader of the Opposition a supplementary.

**Hon. D A Feetham:** Mr Speaker, nobody here on this side of the House is trying to scare anybody. But of course, we are talking about significant amounts of money and we are talking about a break in practice from the past in the way that the Government is undertaking the public finances of Gibraltar.

960 And look, when I was asking the questions a number of months ago, the investment in Credit Finance Company Limited was £344 million. Now it is £400 million by the Gibraltar Savings Bank and another £30 million by the Government. That is £430 million and I just want an idea of what the Government policy is in terms of what it intends to spend this money on, because I need – because it is my duty as Leader of the Opposition – to be in a position to assess the risk to savers' money in relation to the expenditure. I understand that the Government underwrites it all, because the Government underwrites everything within the Gibraltar Savings Bank, but we are talking about significant sums of money.

965 Whether we talk about a third more than the size of the economy or just under a third of the size of the economy, it really does not matter, Mr Speaker, because these are very, very significant sums of money indeed.

970 I would have thought that as a democrat, as a man who placed as the cornerstone of his policy at the last election, openness, transparency, accountability, that he ought to see the concerns on this side of the House in relation to this particular issue and that he ought to be able to answer a straight question with a straight answer.

975 **Hon. Chief Minister:** Mr Speaker, the answers are always straight; it is the questions that are crooked. Does he not see, Mr Speaker...? Look, of course, it is a significant amount of money, but does he not realise, when he talks about whether as a democrat I want to be transparent or not, that we have given him full transparency. He knows what the money has been spent on. Now his questions... because it used to be, 'You will not tell us what it is spent on, hell and brimstone,' he used to say. But when he is told everything that the money has been spent on, Mr Speaker, he says, 'Now you must tell me what you *might* be thinking of spending it on.'

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So his question now is not about the £72 million or £73 million that has been invested. It is about the balance that has not been invested and he is not asking about actual investment; he is asking about future prospective investment.

985 Well, Mr Speaker, look, if I am telling him that we are going to tell him what has been loaned and what has been commuted etc, he is going to see what things Credit Finance is investing in. It is going to be entirely transparent. Whilst that remains a vehicle that the Government wishes to use for this purpose, he is going to not even have to ask questions in this House. It is going to be on the website, Mr Speaker. So what more transparency can he want?

990 They *like* to say Mr Speaker, that we are not transparent. Ten meetings a year, thousands of questions, every one of them answered. I offer them answers in private, they say no. Ten months later they ask the same question. I give the same answer and they say, ‘What about private now?’ I say, ‘No problem, in private, you can have the answer on the things that matter to Gibraltar and could be a route map to our enemies.’ Full and utter transparency Mr Speaker, because of course these are significant amounts of money and we are talking about what it is that they are being applied to and therefore there is no distortion. He just has to do the mathematics.

995 He says there is a break from the past, Mr Speaker, in the way that this money is being managed. Yes, there is a break from the past. We have been defending that break from the past from the minute that we started answering questions about this. We are saying this is active management of that money and he says, Mr Speaker, that he is the guardian and it is his duty to ensure that this money is being properly invested.

1000 Well look, Mr Speaker, as Leader of the Opposition he has wider duties than that. He can look at every penny that is being spent. We are answering his questions. But actually, it is the Financial Secretary that has statutory responsibility for that money. This money has not passed from his control into the hands of a third party. It has gone from one hand of the Financial Secretary into the other hand of the Financial Secretary and therefore there is absolutely no risk that the money is being dealt with by anybody other than the person who has statutory responsibility for it in the way that he thinks is the appropriate way to deal with it, and with more active management will come the better returns.

1005 Now, Mr Speaker, it will be a matter for him at the time of the election to be able to say, ‘This has not produced the results that would have been produced’, or to accept, as I hope he will, Mr Speaker, at the time of the next election if we are proved right, that Credit Finance was the right vehicle, that Credit Finance has produced the return, that Credit Finance has delivered no risk, but an excellent source of investment for the taxpayer.

1010 In respect of one particular thing that Credit Finance does, which are these commutations, he has to remember that Credit Finance is paying to the pensioner the commutation and is receiving a very steady income stream and that actuarially it is very clear that that is absolutely safe. All that is in the pot, Mr Speaker. All of that information is out there. It is now going to be available to anybody on the internet, month in, month out. What more does he want? He has had the information on what money has been spent on. He will see what future money is invested in and that is the end of it, Mr Speaker. There can be no more to delve for.

1015 But of course, Mr Speaker, there is one added element to all of this. It was he himself, Mr Speaker, who said that it is very likely that he is just at the end of the day the GSD’s night watchman. Well, Mr Speaker, night watchmen spend their time at the graveyard, on the graveyard shift. What he needs to do, Mr Speaker, is stop digging.

1020 **Mr Speaker:** Does the Hon. the Leader of the Opposition have any – I will allow him one more supplementary arising from these ten questions that we are answering, because we must draw a line under this debate.

1025 **Hon. D A Feetham:** I have one more and the hon. backbencher has another one as well.

1030 **Mr Speaker:** Yes, go ahead.

1035 **Hon. D A Feetham:** Well Mr Speaker, the hon. Gentleman delights in the use of the words ‘night watchman’. I have to say that I do not have the arrogance that has been displayed only this morning by the Hon. Minister Balban when he said that his Government was going to remain in office for 16 more years, or indeed the Hon. the Chief Minister when I think in the same programme or the *Talk About Town* programme, he said that he was going to be serving the people of Gibraltar for the next three terms. It is a matter for the people of Gibraltar, and then for my party.

1040 **Mr Speaker:** The Hon. the Leader of the Opposition might like to know that, on one occasion in a test match at Lords between England and New Zealand, the nightwatchman scored 99 not out! (*Laughter*)

**Hon. D A Feetham:** Mr Speaker, and this particular nightwatchman intends to deliver one or two knockout punches and one or two sixes from now until the next general election.

1045 But Mr Speaker, the hon. Gentleman tries to characterise this in a particular way, minimise the importance of this. Look, he has already invested a substantial... the company has invested a substantial amount of money. We calculate about £70 million loan book and commuted pensions, some of which has gone to housing estates, some of which has gone to allow people to pay for the Government arrears, including arrears of tax. That is not possible for the Opposition to determine what kind of risk to assess, get a flavour of the risk that this involves, because of course, we do not know the identity of who is in receipt of this particular money. That is the substance of our criticism as well as, of course, other criticism about the distortion of public finances.

1050 It just strikes me that the Government continues to invest substantial amounts of money in this particular company. As I said, it has gone up by nearly... Well, it has gone up from £334 million to £430 million, by about £100 million. Does the Government envisage that by the time of the next election the entirety of that £400 million is actually going to be used in whatever venture the Government chooses that this particular company invest in?

1060 **Hon. Chief Minister:** Let me start at the beginning, Mr Speaker, of that intervention. Mr Balban this morning did not say that we were going to stay in Government for 16 years. He said, Mr Speaker, that if we were to do something about that road, we would certainly do it in our first 16 years of Government because they seem to be very keen to ask questions and push us to do things which they appear to have had absolutely no interest in during the 16 years that *they* were in Government.

1065 I did not say Mr Speaker, and he knows it is not in my character however much he tries to mischaracterise me, that I would be Chief Minister for 10 years. What I said was that even if I had the opportunity of staying for longer than 10 years, because the people of Gibraltar might be prepared to tolerate me, I would not stay for more than 10 years because I have said repeatedly, Mr Speaker, that I will not be Chief Minister of Gibraltar when my son reaches the age when he becomes a student at Bayside. That is a personal choice of mine, whether or not my party wants me to stay or whether or not the people of Gibraltar want me to stay.

1070 I would have thought, Mr Speaker, that he would say, 'You are closer to my idea of term limits which I constantly put' – which is him – that he says it should be a maximum of eight years. Well, I am saying, Mr Speaker, I would do a maximum of three. That does not mean I think I am going to win three or I am taking anything for granted. Or is it, Mr Speaker, that every time he has talked about doing two, he has assumed that at one stage he is definitely going to win and do two and get the chance. So this bears absolutely no relation to reality other than just his attempts to twist everything to try and win an easy 'spin-able' political point – nonsense, the lot of it.

1075 But it comes to something, Mr Speaker, when you try and throw him a lifeline, he shows who he really is, because when you referred to the nightwatchman that succeeded, he says that he intends to land quite a few punches. Well, Mr Speaker, I remind him that when Mr Bossano used a punching analogy, he thought that this was absolutely terrible, that it showed a preponderance for violence, that he was a man of words, not a man of physical violence. Well, I commend to him, Mr Speaker, that he re-read his speech and not use that sort of language anymore because I certainly am not a man of violence. I am a man of words and I would not be looking to spend the next three or four years having a punch-up. I would much rather we just have civilised debates on issues.

1080 Now, Mr Speaker, avoiding a debate, but trying to answer the question: it is about £72.2 million that we have given the information today has been invested in a particular way. Mr Speaker, we have said on a number of occasions, and he likes to forget because it does not work for the argument he is trying to spin, that the amounts on the loan book are more than fully secured and those that had previously had arrears to Government did not, because of the fact that there was a debt, have in any way the Government debt secured, whilst through Credit Finance, the Government has – or the Credit Finance Company – has lent the amount against security. So there is now security in respect of those loans where there was not security in respect of those arrears.

1090 We have *had* this debate. He has *had* the information. He likes to pretend he did not so that he can continue to ask the same questions over and over again. [*Technical difficulties*]

1095 Well, it is not a power cut, Mr Speaker, but it is a gremlin in the system somehow that seems to have gone wrong. Oh, it is a power cut!

I am told, Mr Speaker, we should stop whilst they... Shall we recess for 10 minutes?

**Mr Speaker:** We will recess until we get power.

*The House recessed at 4.37 p.m. and resumed its sitting at 5.40 p.m.*

**Substitute Clerk:** Mr Speaker.

1100 **Mr Speaker:** The Hon. Sir Peter Caruana I think wanted to ask a supplementary before the power cut. Chief Minister?

1105 **Hon. Chief Minister:** Mr Speaker, I had not finished my answer when the power was interrupted, but given that I think I had given the substance of what I was going to say to the Hon. the Leader of the Opposition and obviously my thread has gone, I think I will leave it there.

Obviously the interruption of the power reminds every one of the urgent need for the grid and the new power station to be developed as soon as possible in the interests of our community, which is exactly what we are working on.

1110 **Hon. Sir P R Caruana:** Yes, Mr Speaker, as I understand the hon. Member's position, it is that of the £70-odd million that have been invested, the bit that has been invested in the... which we debated last time I took part in a question and answer session on this subject that has been invested in an attempt to boost the yield so to speak of the fund in the Government pensions commutations.

1115 Is there anything the hon. Member can tell us by way of just information about how that investment is calibrated in terms of releasing profit? Given that in effect what you are doing is buying the pension rights which die with the pensioner and therefore it is a straightforward sort of life insurance annuity company type investment, is the release of profit which you can then use for the general yield of the investment, is that done on the basis of, per pensioner, has this particular pensioner died early thereby liberating profit or died late thereby creating profit rather, as opposed to costing profit, or is it done on an actuarial basis?

1120 If on the latter, presumably you would need statistics before it could be particularly reliable. You would need a longer tail to use insurance company jargon, before you could rely on it.

How do you calculate profit is the question, really?

1125 **Minister for Enterprise, Training, Employment and Health & Safety (Hon. J J Bossano):** Mr Speaker, I believe that the way we are calculating the level of profitability is in fact the more conservative way, which is since the yield exceeds the cost... that is to say, the return on the money is 8% because the commutation is a lump sum which is 12 times the pension. So if you do it in the reverse, the return happens to be 8% per annum on the amount that will be given to the pensioner. Not the cost, the income, the revenue of the pension is 8% of the lump sum –

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**Hon. P R Caruana:** Whilst he lives.

1135 **Hon. J J Bossano:** Whilst he lives, so we are paying out 12½ times the pension and therefore if you pay out x thousands of pounds – in some cases we are talking about a couple of hundred thousand quid or more – then that in effect starts yielding 8% per annum from the first monthly pension that is received.

Since that is in excess of the cost of the money, what we are doing is that in effect in terms of accounting for the income stream, it is being used as if it was similar to a mortgage which is a repayment mortgage where you are reducing the capital by the surplus of the interest which is the profit.

In terms –

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**Hon. P R Caruana:** You might end with a capital loss –

1145 **Hon. J J Bossano:** You might end with a capital loss if a lot of our civil servants die within eight or nine years of retiring. Given that they are all retiring at 55, it would be a major change in the demographic statistics with which we are working. The reality of it is that life expectancy is around 78 years in Gibraltar, the average male life expectancy. I know what a hard life civil servants have, which may reduce our life expectancy, but there is no evidence of that happening. *(Laughter)* Therefore, if anything, they are likely to live more. Some politicians expect to live well over 90 years, so on that basis the commutation is likely to be a very profitable business.

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The reality of it is that we are taking a conservative view, rather than saying well look, we will take all the income up front and by reducing the amount of capital that we have outlaid, rather than taking the profits upfront, we are likely to have a situation in a not very long space of time, where the amounts that are coming in will be, to a very large extent, financing what we put out once it gets to a certain critical mass. The income that comes in will mean that we have reached, for example, the end of the repayment of the original lump sum and we will still be getting an income which as well as being 8% to start off with, is actually programmed

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to increase by a minimum of 2% per annum, because the hon. Member will remember that he introduced into the Civil Service Final Salary Scheme, a minimum increase which was either inflation or 2%.

1160 **Hon. Sir P R Caruana:** And of those pension payments that you are collecting, are you releasing any part of it? Did I hear him say that he was or he was not releasing a part of it or he was keeping the whole of the annual pension payments for the eight years and then only kept the profit if the pensioner lived more than eight years, or in year one, on the basis of some actuarial assumption that people will live more than eight years – of course some might not but many more will than will not – are you releasing part of each payment, even from the very first payment? Are you releasing any actuarially computed part of each premium payment, 1165 if you could call it that, which would have been the monthly payment of pension collected by the pensioner had he not commuted with you, is any of that being released as profit, which is how an insurance company or how life insurance annuity company would do it?

1170 **Hon. J J Bossano:** This is why I started off by saying I believe we are adopting a more conservative approach, so rather than taking the profits as we go along, on the basis that every year we will have a profit, we are taking enough of the income to cover the cost of the capital and the balance we are using to reduce the amount of the loan, as it were. So that in fact the...

1175 **Hon. Sir P R Caruana:** On the capital in terms of what the commuted... what you are paying to savers, not in terms of... That is how you get the return –

**Hon. J J Bossano:** That is right, yes.

1180 **Hon. Sir P R Caruana:** – that we spoke of before. That is how you are matching the yield gap, closing the yield gap that you need to pay the [*inaudible*].

1185 **Hon. J J Bossano:** If I were to give a simple example, if the cost of the money is 5% and the income is 8%, then effectively the 3% would go to reduce the size of the money that theoretically we have got at risk. So in effect, it means that the amount we have paid up is... I mean in terms of the amount of cash in the company does not make any difference, but we are treating some of it as repayment of capital and some of it as income.

1190 **Hon. Sir P R Caruana:** So in fact the Government, for the company as a whole, not to be in a loss-making situation, pensioners need to live more than eight years because if you are only using 3% a year, and of the 8% the other 5% is going to meet the cost of capital, the amount by which you are reducing the 5% is going to pay the cost of capital in terms of the annual interest cost of capital, only 3% of the 8% are going to reduce the capital liability, so they would have to live more than eight years for the whole of the capital to be repaid, so to speak, at the rate of 3% per annum.

1195 **Hon. J J Bossano:** Well yes, and then the effect of that is that after year one, the return goes up every year because you have got two elements that are increasing the yield. You are reducing the size of the payment that you made, but the return that you are getting is the same as if the original amount was there and the original amount is index linked.

1200 It is true that it will take more than eight years for the whole of the capital, but in fact the return in the final year is that you might be getting £50,000 on a theoretical return of an investment which is only £1.

1205 **Hon. Sir P R Caruana:** Yes, in terms of return on capital, yes, but in terms of capital at risk of not being... In terms of return on capital, yes, every year that passes, your return on the remaining capital outstanding is hugely increased, but in terms of the amount of capital in jeopardy, if I could just call it that, it may not be covered. People may die soon and you may be left, having commuted a civil servants pension – let us say somebody unfortunately dies young – you will have a capital loss that might run into £100,000 if he dies very young. That hopefully will be covered by the many other civil servants who do not die before the capital has been repaid.

1210 So in terms of the recoverability of the capital, it is not really done on an individual by individual basis, some individuals will be loss making, obviously – the ones who die. Other individuals will be hugely profitable if they live to a ripe old age of 100 and the Government is having to carry on paying the premiums, the monthly sums, those will be hugely profitable and those will make up for the capital loss in the cases of people that you have paid out a commutation to and then die the next day. In which case, all of that capital will have been lost.

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1220 **Hon. J J Bossano:** Yes, it is in fact... You could argue that you are going to lose money on 5% and make a profit on 95% but it is not being done on an individual basis. The whole of the money that is paid out in one year is then treated in that way and even if there are some unfortunate people who die before, the amount that we lose on the basis of the statistics that we have got of the rate at which people die after they retire, we are fairly confident from the figures the Treasury has produced that the whole thing will be quite a profitable thing and since people want it, and we are delivering them, it is their choice. I mean people can choose to carry on with their pensions because it is their –

1225 **Hon. Sir P R Caruana:** Actually it suits the Government that people should retire earlier rather than later.

**Hon. J J Bossano:** Well, it suits the Government that if they choose to retire earlier, they take the option. That is what suits the Government!

1230 **Hon. Sir P R Caruana:** You are more likely to recover your investment, the earlier you retire.

**Hon. D J Bossino:** Mr Speaker, there is just one question arising in relation to the Credit Finance Company Limited which I would like to pose. It is simply a factual point in respect of which I would be grateful if the Chief Minister could assist.

1235 There is a scheduled answer which was provided to my Hon. and Learned Friend, Mr Figueras to Question 419, which lists the Government-owned companies which have paid out in legal fees to legal firms. There are two instances where Credit Finance Company Limited features. One is in September of last year to a firm called Hammarström Puhakka Partners, Attorneys Limited for a sum of about £14,000 and the other one is in March of this year to Hassans for about £75,000.

1240 Given that the expenditure as explained by the Chief Minister before, or rather that Credit Finance Limited has a loan book of about £44.5 million and I think he also mentioned the other expenditure is in relation to commuted pensions of about £22-odd million, can he explain how this fits in? Is this only in relation to the loan facilities which have been provided? Is that the legal work in relation to that?

1245 **Hon. Chief Minister:** Mr Speaker, I do not like to speculate but I will assume for the purposes of a debate that it is the case, and it is very likely that as part of such loan facilities the costs of Credit Finance Company Limited will actually have been amortised and borne by the borrowers. (*Interjection*) Yes, but it does not mean that Credit Finance would not pay it. They would have been assumed by the borrowers, but it would be Credit Finance instructing and making the payment, even though then it recovers it from loans. That would be the usual way in which it is done, even in a commercial transaction.

1250 **Hon. D J Bossino:** Perhaps if we can find a way of securing confirmation of that information, because I take it that the Chief Minister is unsure of the answer he has given, by writing to him.

1255 **Hon. Chief Minister:** Mr Speaker, I would seek to confirm that, but again, without indicating in respect of what particular facility it might be, I would simply write to the hon. Gentleman if he wishes and say yes, I can confirm that this relates to work done in respect of the loan facilities granted by Credit Finance Company Limited.

1260 I am quite happy to confirm that to him in writing if somebody who is listening is making a note and ensuring that my Office prepares a response.

**Hon. D A Feetham:** Yes, Mr Speaker, and that obviously it forms part of the £49 point something million – £49.4 million I think it was – loan book for Credit Finance.

1265 And just, Mr Speaker, for the sake of the record, the economy was forecast by the hon. Gentleman to grow in his Budget speech last year to £1.224... so if I said over a third, it is just about a third of the size of the economy, £400 million. Indeed if one takes £400 plus, the £430 million is probably a third of the size of the economy or slightly over.

**Hon. Chief Minister:** I am grateful that he accepts that he was wrong about that, Mr Speaker.

1270 Of course, Mr Speaker, it is Hassans that were paid the fees. So given that it appears he acts for Credit Finance Company Limited, I am sure that he thinks that it is not such a problem company after all.

1275 **Hon. D A Feetham:** Well, Mr Speaker, as a partner of Hassans, the hon. Gentleman probably knows as much as I do. I stay away from partnership issues of Hassans, because of course every single time, he makes exactly the same point, and therefore I choose to stay out of it. But he is a partner of Hassans, so therefore he has as much knowledge as I do.



**Hon. Chief Minister:** Mr Speaker, whether he likes it or not he is a partner of Hassans and whether he stays away from things or not, I am on a sabbatical. He is not: he is actively a partner of Hassans. Credit Finance can consider him their lawyer and take very badly the fact that he is suggesting it is in some way acting and not in the interests of the Gibraltar taxpayer, and may want to take that up with his partners.

1280

**Hon. S M Figueras:** Mr Speaker, I would like, if it is alright by the Chair, to ask a supplementary in relation to the information, I think it was also in relation to Question 419 where I was provided with information about the legal drafting services, where we had the dispute as to whether it had been published or not.

1285

Yes, Mr Speaker, the information that the Hon. the Chief Minister provided me – well, did not provide me, sorry, as the case may be – that I accessed on the internet, there is a discrepancy between that information and the information as was published at the time when the question was asked, Mr Speaker.

The one particular discrepancy I am referring to is that in respect of one of the legal drafting service providers, namely Mr Vinet, who had, until the point when the question had been asked, been included on the list of legal drafting services providers, is now, in the information that is posted on line, in the general legal services table.

1290

Could the Chief Minister perhaps provide an explanation as to why that is the case?

**Hon. Chief Minister:** No, Mr Speaker, the fact is that I – (*Interjection*) no, hang on! (*Interjection*) Okay.

1295

**Hon. D A Feetham:** Just to clarify that, when the information... you may recall that when I asked the question, the Hon. Chief Minister said, 'We are going to be posting this information today.' When it was posted there was a list of people, including Mr Vinet, as legal drafters. In fact the work that each drafter had done for the money had not been published, which was what I asked.

1300

It appears now that in recent weeks, he has been taken out and placed somewhere else, and that is really what we are querying – the reason for that.

**Hon. Chief Minister:** Mr Speaker, I do not know the answer to that. I do not actually contract these services myself. I am quite happy to look at it. It may be that he has been put in a drafting table when actually it is a services table and whenever they have done the refiling of the information, they have changed it round. I am quite happy to go back and check and if the hon. Gentleman writes to me, I will send him the answer.

1305

**Mr Speaker:** Now we revert to the Hon. Mr Damon Bossino who had not finished with questions to the Hon. the Minister for Employment.

1310

**Hon. D J Bossino:** Yes, before everybody falls asleep, Mr Speaker!

Actually just to point out, I was quite interested when I was listening to the Hon. the Minister for Employment's answer, when he was answering the hon. Member Mr Caruana, when he said in terms of life expectancy, just to point out that Santiago Carrillo and Dom Mintoff both on the left of the political spectrum lived way into their 90s. So the hon. Member really can draw comfort from that!

1315

Mr Speaker, if I could go back to Question 402, one of the companies which featured in that question is SECL, which relates to those who are in supportive employment. Can he explain what criteria there are, if any, to allow individuals basically to be employed by this company? What is it that his Department considers in terms of disabilities and what are the requirements in order to access employment in this particular company?

1320

As I understand and recall from his previous answers, this is not one where you enter into agreements with the private sector and they are permanently employed with this company for obvious reasons.

I would just like to know whether there are any criteria in terms of admission, in effect.

1325

**Hon. J J Bossano:** Well, the number that we originally inherited was 46 and it has grown since, basically by virtue of the people that we have registered as looking for employment and their ability to cope with a normal job – although in fact some of the people that were there originally have actually been able to get jobs in the market. They have applied for jobs, we have helped them and they have actually left, so in fact the total, you will see that in some months it is actually lower and that is because some people have actually left the company and gone into employment with a normal salary and a normal job and that kind of thing.

1330

The bulk of those who are there are people we are trying to help effectively to finish up with a normal job but it may not be possible. Therefore it is an evaluation that is done based on the experience we have of trying to get them work.

1335

In some cases, it is obvious from the moment they leave school that they are not going to be able to cope with the normal problems of the job market and generally it is the same criteria that were used in terms of the original 46, there are a certain kind of problems related to some kind of conditions, which were generally the

ones that led to the 46 individuals in the beginning – people who fall into that kind of category automatically when they leave school would have gone into the old system and now go into this one, using the same criteria that was being used before.

1340 But, because we have widened the net as it were, the increase is because it was not just a kind of traditional conditions that were thought to make it very difficult to get work that are in there. In some cases, it is because people have been in normal jobs and it has been impossible for them to carry on working and in some instances it may be that they are close to the age when they become entitled to some income from the social security or from community care or something like that and we are bridging the gap by putting them here for 1345 two or three years and giving them an income and giving them some kind of a job to do in return for that income, which in those cases is usually somewhere in the public sector.

1350 About two thirds of them are placed in the private sector and those in the private sector often make the transition to a normal job. But the answer is that the criteria that were being used for the original 46 are still used for people with similar conditions and in other cases, it is a question of people having been identified as being difficult to place through the time that they have been registered seeking employment or the problems they have had in keeping a job when they get one.

1355 **Hon. D J Bossino:** That is precisely the point I wanted to explore further in terms of the ‘widening of the net’ as he puts it. How has the net been widened? Can he be more specific in relation to that?

**Hon. J J Bossano:** Well I have just explained it, Mr Speaker. The net has been widened because there was a list of conditions that the 46 fell in and if anybody is covered by those, then we take it for granted that they would have gone into the old system and we put them in the new one.

1360 In addition to that, some people who are in their 50s and who for a variety of reasons may find it impossible to get work and are caught in-between – maybe they have had an illness, they have had an operation, they are not able to hold a job – we then help them by giving them an opportunity to be in this company, to be doing something and to have an income, until they get to the age of 60 and they get an income.

1365 Other people are people that, having come out of school and having been in the labour market in competition with others, have found it very difficult to get a placement or to get... We try first through ETCL and the normal placement and a business partnership agreement and a job at the end, so we try with everybody in that scenario. It is only when we find that it is very difficult and we think that we may not be successful, that we then look at the possibility of putting them in the Supported Employment Company. But even when they go in there, what I am saying to the hon. Member is that it is not the end of the road, we still try to get them back into the normal job market and we have succeeded in two or three cases this year so far, for 1370 example. So we have actually had two or three people leaving the system of SEC and entering back. So whereas at the beginning in 2012 when we started it, SEC was, as it were, a closed shop in the sense that the categories that were there were the ones that were there. Since then we have used it to be more of a half-way house between ETCL and unemployment.

1375 **Mr Speaker:** Next question.

**Hon. D J Bossano:** Mr Speaker, I think there is one further supplementary which arises from a question which has been answered by the Hon. Minister and that is Question 405 and for his assistance, it relates to the GRAD trainees and as to where they are currently placed.

1380 I took a very quick note of what he said. I think he talked about public administration and other services. There are one or two questions I wish to ask. The first one is are all these trainees exclusively in the public sector or are some of them also in the private sector?

1385 **Hon. J J Bossano:** Those in other services are in the private sector and those in the private sector are all with business partnership agreements and a job guarantee at the end.

1390 **Hon. D J Bossino:** And if he could explain how that fits in with the manifesto commitment in relation to graduates’ employment because I think the idea, certainly how it started off in 2011, was that this would be offered to returning graduates to Gibraltar and that they would be specifically carrying out work – I think the wording used is ‘in the Department’, I assume it is in the hon. Member’s Department – to assist in research activities in connection with inward investments. There was a very specific commitment. Presumably the Minister has decided to move away from that and use and widen the policy, if you like. Can he accept that the premise of my question is right, that there has been a moving away from the commitment as set out in the manifesto?

1395 **Hon. J J Bossano:** Well, not quite, Mr Speaker, because we have not moved away because what was done in the manifesto is what we intended to do when we were told by the previous Administration that the

1400 numbers of graduates were about six. That is what we were told in the budget before the election and the unit that is doing the research consists of six. But we have not got six; we have got 60 – ten times the number. We have not got the amount of work in research for investment opportunities and training and the kind of research that has been done in the skills audit and that kind of thing, to keep 60 people involved in doing that.

1405 Moreover, some of the people that were taken in during the course of the last 12 months were not people who were returning graduates, but people who had become unemployed having already been in the labour market. Therefore, those are, in effect, in GRAD on the same terms that they would be if they were in ETCL.

1410 If they are in a private placement, they are in a private placement with a BPA at the end and a job guaranteed. If they are not in a private placement, then they are effectively in different Government Departments where they are really doing something for the Government on the basis that they are moved around and they acquire skills which improve their prospects of employment, when they apply for jobs either in the public or the private sector. But they have to apply in competition with everybody else; they do not get a greater opportunity than if they were not in there.

1415 In some specific instances, there are some graduates, particularly in... I think we have got three or four that are civil engineers, where we are giving them the opportunity to work in civil engineering, because in fact, in looking at the succession planning in the Government, the reality is that the returning graduates would have been in the impossible situation that when vacancies come up, they would not have been able to apply because the requirement would have been that they would have had post-graduate experience of working in a civil engineering capacity which does not exist outside the Government. So you had a situation where if we did not give them the opportunity of getting experience, when the jobs are advertised, we would have finished up with unemployed civil engineers in Gibraltar and having to import experienced civil engineers from outside.

1420 So that is one kind of category that was not envisaged at the beginning, but in the light of experience and the advice from the Department that they have in problems of recruitment that they cannot put somebody straight out of university into the job and expect him to do it, simply because he has got all the necessary qualifications, if he has not been working previously somewhere. So we have got a number of grads who do not have a guaranteed job in the Government, but what they are getting is the experience that will qualify them to apply for the job when the job comes out.

1425 That is true also of some cases where what we have done is provide people with the opportunity of doing some work in certain Departments where their registration in the United Kingdom in the profession would be lost if they did not get continued experience to prove that they are still using their knowledge, for example in the laboratory in the Health Authority and that kind of thing.

1430 So really, the extension of the scheme beyond the original programme for six or seven graduates doing research has been driven by a number of different factors. One of them has been giving specific professionals an opportunity to gain experience so that they are able to compete for jobs when the jobs come out, giving people the opportunity to retain their registration in the United Kingdom, or else simply helping people who have been unemployed so that they do not have a period of unemployment when we have had difficulty in finding them a placement. In some respects, it is more difficult to find work for graduates than for non-graduates.

1440 **Hon. D J Bossino:** So, Mr Speaker, just to be absolutely clear, the hon. Member's position is that this commitment was made on the basis of answers that he was given in the previous House by his predecessor, to the effect that the number of returning graduates was six in number. So is my understanding correct or is it not?

1445 **Hon. J J Bossano:** Well Mr Speaker, I think my command of the English language is sufficient to make myself understood!

1450 I have said before and I have said today, that the commitment to set up a unit of graduates to carry out research for the Employment Service was on the basis that the information available to us when we designed the concept was that on average, at any one time, the number of people who were unemployed who were returning graduates was of the order of six or seven people.

1455 Therefore we thought well, six or seven people can come in, do the research for the Government, rather than come in, be unemployed, not find work and then go back to the UK because all they did was come here in the summer and if they could not find work at the time, of course it might have been that there were periods in the past when the situation in the United Kingdom was that people that came out of university found work easier than has been the case recently. Maybe in the past the numbers were not as great as they have been in the last couple of years.

Because of course it is true that in many instances we used to have a lot of the graduates coming back and just working the summer here, and if by September or October when the summer season finished they could not find work here, they would go and most of them would not come back.

1460 The idea was that if we had six or seven people who were doing that and then disappearing, it was better to give them an opportunity to do something here which would retain them in Gibraltar, we would use them to do research for the Government and by being here, they would be able to be in a position to apply for the jobs that come up which they might not do if they left Gibraltar. Because we want, having invested, as we do, £12 million every year in sending people to university, then if we can provide them with work here, it is better that our people should be here in the view of the Government than that we should have to import graduates from elsewhere while we are losing ours to other places.

1465 So that is the context of how the scheme started and the context in which it has grown as it has grown. The present size is composed therefore of three elements. There is the Research Department that was there originally; there are the people who are in a discipline where we need to help them in order to be able to equip them to be able to apply for jobs, because the degree with no experience post-graduate is not much use; and the third category are people that we are giving an opportunity to get experience and do work for the Government in different Departments, but with the intention that they should find work in the private sector and they know that. They know that what they are doing is being helped to obtain experience but not being offered a job in the Government.

## ENTERPRISE, TRAINING, EMPLOYMENT AND HEALTH & SAFETY

### Q406/2014 Skills audit – Progress update

1475 **Substitute Clerk:** Question 406, the Hon. D J Bossino.

**Hon. D J Bossino:** Can the Minister for Employment provide the House with an update as to progress in relation to the skills audit which he has said the Government is conducting?

1480 **Substitute Clerk:** Answer, 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, this is an ongoing exercise. There have been regular updates of the analysis for the construction industry – which I told the House about when this question was previously asked – monitoring its composition in terms of skills and as regards age and nationality of the workforce.

In addition, an audit has been conducted in the care services and related industry, electricians and related trades, tourism and leisure, gaming, child minders, hairdressing and beauty, and the accounting sector.

Currently the Research Unit is doing an audit for the wholesale and retail sector.

1490 **Mr Speaker:** Does the Hon. Mr Bossino have any supplementary on this, arising? Please do.

1495 **Hon. D J Bossino:** Mr Speaker, I think the hon. Member mentioned a unit that is looking into this. Is that correct? Can I ask him what resource has actually been dedicated to this in terms of, the resources in his Department in terms of employees who form part of this unit? How many people are looking into it and if it is possible, and I understand it may not be, to break it down in terms of how much expenditure is being dedicated to this?

1500 **Hon. J J Bossano:** Well, the only expenditure is the wages and the cost of the electricity for the computers. The team is a team of six graduates that are in the Research Unit so they are the ones who are doing it. This is one of the jobs that they are doing. It is not the only thing they do but this is one of them. I mean for example in terms of the construction industry, which is the one we concentrated on from the beginning, because it was evident from the employment surveys that the participation of Gibraltarian and other residents was very low, but we did not know before the exercise was done. We had an average figure but we did not know in different trades what was the share held by residents.

1505 Well, for example the first thing we found out – which was the reason why we decided as a matter of policy to start last September with training for tilers, bricklayers and plasterers – is that in that area Gibraltarians were 7% of the workforce. So that for every 100 employees in the construction industry in the work trades, seven were Gibraltarians and 93 were outsiders. So clearly there was an area where there was a skills deficit which was very visible.

1510 In the case of plumbers, for example, the situation was that 55% of the plumbers were Gibraltarians and  
45% were outsiders. So given that the entire concept of everything that we are doing with the companies and  
with the training is that we provide people with skills for which there is an identified demand, we identified  
the demand first and the demand is identified by the need to import labour to meet the demand. So where we  
1515 have got a situation where we are having to import 93% of the workforce, it is logical to say well if we had  
more people here, we would need to import less than 93% and that is part of the rebalancing exercise that  
will be taking place and it started in the construction industry.

I can tell the hon. Member that the latest report that I have had from the unit is that for example in the last  
12 months – that is, in the last financial year – the Gibraltarian workforce in the construction industry has  
gone up by 18% and the non-resident workforce has gone up by 17%. We have still got a very long way to  
1520 go because of course there are many more of the non-residents than residents, but we are beginning to try and  
recover a greater involvement in that area.

We are therefore looking at other areas initially on the basis of deciding where we need to be encouraging  
people and providing training. So if we find – as I have told the hon. Member – in the other areas that we are  
looking at, the purpose of the exercise is to establish which areas in terms of skills and which areas in terms  
1525 of industry are very highly dependent on Frontier Workers and which are less. Therefore in those where there  
is a very high dependence is where we want to do something to change that so that our dependence is less.

In addition, at the same time we are looking at the age profile, particularly the age profile of the resident  
workers because the reality is that the imported workers tend to be on the whole younger. But the age profile  
of the resident workers means that as well as being in some areas a small percentage, they tend to be a small  
1530 percentage and in the higher age ranges. So it means that if we do nothing, the percentage will go from being  
small to being zero, because there are people who are closer to retiring age, people in their 40s or their 50s  
rather than in their 20s. So you know that is essentially the work that is being done in terms of the nature of  
the audit and the use to which the audit results are being put.

#### Q411/2014

#### Public Service personnel – Net increase in numbers

1535 **Mr Speaker:** Can we deal with the questions in the Order Paper down to the Leader of the Opposition,  
to enable him to attend a pending engagement? Can we call Question 411?

**Substitute Clerk:** Question 411, the Hon. D A Feetham.

1540 **Hon. D A Feetham:** Mr Speaker, I am very grateful.

The Hon. the Minister for Financial Services and myself are attending a black tie function by the Funds  
Association at half past seven. That is the reason why.

1545 Mr Speaker, can the Chief Minister please provide the total net increase in the number of personnel in the  
public service from 1st April 2013 to 31st March 2014, by reference to the Civil Service, Gibraltar  
Development Corporation, Government-owned companies and Public Authorities?

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

1550 **Minister for Enterprise, Training, Employment and Health & Safety (Hon. J J Bossano):** Mr  
Speaker, the net increase in the financial year 2013-14 in the number of personnel on the public service  
payroll in each of the four areas is as follows: Civil Service, 47; GDC, 12; Government Companies, 40; Public  
Authorities, 48.

1555 **Mr Speaker:** Next question.

**Q412-414/2014**  
**Public debt and debentures –**  
**Figures for 2014**

**Substitute Clerk:** Question 412, the Hon. D A Feetham.

1560 **Hon. D A Feetham:** Mr Speaker, can the Chief Minister please give a breakdown by bank and amount, of that part of the aggregate public debt which comprises bank debt, as at 28th February 2014, 31st March 2014, 30th April 2014?

1565 **Substitute Clerk:** Answer, 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 will answer that question together with Questions 413 and 414.

1570 **Substitute Clerk:** Question 413.

1575 **Hon. D A Feetham:** Mr Speaker, can the Chief Minister please provide this House with a breakdown by debenture issue of that part of the aggregate public debt which comprises Government debentures as at 28th February 2014, 31st March 2014 and 30th April 2014?

**Substitute Clerk:** Question 414.

1580 **Hon. D A Feetham:** Mr Speaker, can the Chief Minister please provide details of the value of Gibraltar Savings Bank debentures or other debt security as at 31st March 2014?

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

1585 **Minister for Enterprise, Training, Employment and Health & Safety (Hon. J J Bossano):** Mr Speaker, the aggregate public debt consisting of bank debt was Barclays Bank plc £150 million and NatWest Offshore Limited £50 million for each of the three months.

The part of the debt in Government debentures by maturity dates were as follows: in February, 2017 debentures, £67,813,800; one month's notice, £87,859,400.

1590 In March, the figure for debentures is the same: £67,813,800; and the one month's notice is slightly down, £87,148,200.

And in April the same figure for debentures and the one month's notice is £86,940,100.

1595 The value of the Gibraltar Savings Bank debentures and other debt security by maturity dates as at 31st March was: one month, £24,123,900; 2015 Debentures, £44,161,200; 2016 Debentures, £23,068,600; 2017 Debentures, £87,840,000; 2018 Debentures, £165,054,000; other Debentures, £25,533,300; Bonds, £73,880,639; Deposit Accounts, £404,382,242.

The aggregate Public Debt consisting of Bank Debt was; Barclays Bank plc £150 Million, and NatWest Offshore Limited £50 Million, for the three months.

Government Debentures by maturity dates were as follows:

As at 28 February 2014:

2017 Debentures	£67,813,800
One month's notice	£87,859,400

As at 31 March 2014:

2017 Debentures	£67,813,800
One month's notice	£87,148,200

As at 30 April 2014:

2017 Debentures	£67,813,800
One month's notice	£86,940,100

**Cont. Q414/2014**

The value of the Gibraltar Savings Bank Debentures and other debt security by maturity dates, as at 31 March 2014, was:

One month	£24,123,900
2015 Debentures	£44,161,200
2016 Debentures	£23,068,600
2017 Debentures	£87,840,000
2018 Debentures	£165,054,000
2019 Debentures	£25,533,300
Other Debentures	£7,913,973
Bonds	£73,880,639
Deposit Account	£404,382,242

**Mr Speaker:** I think the hon. Member may have left out 2019 Debentures, I did not hear him.

1600 **Hon. J J Bossano:** 2019 Debentures is £7,913,973.

**Mr Speaker:** No, if he will check again, I think it is £25,533,300.

1605 **Hon. J J Bossano:** I will read the whole thing again just to be on the safe side, Mr Speaker. (*Interjection and laughter*) Why not?

**Chief Minister (Hon. F R Picardo):** Too much information.

1610 **Hon. J J Bossano:** Well Mr Speaker, if they are so keen for these figures, I thought they would enjoy hearing it. (*Interjections*)  
2019 is £25,533,300. Then the Other Debentures is £7,913,973. The Bonds £73,880,639. £404,382,242 is the Deposit Accounts.

**Q406/2014**  
**Skills audit –**  
**Question continued**

1615 **Mr Speaker:** We now come back to the Hon. Mr Damon Bossino.

**Substitute Clerk:** Question 407. (*Interjections*)

1620 **Mr Speaker:** Do you have another supplementary? I am becoming very frustrated just now, because neither the questions nor the answers are short or sharp or to the point. This is going on and on and on and that is not the purpose of Question Time.

1625 **Hon. D J Bossino:** Okay, Mr Speaker, in relation to the skills audit, the hon. Member has said in the past that the census would have an influence in the production of the skills audit. Can he give any information in relation to the census? Is that complete?

**Mr Speaker:** No, no he cannot.

1630 **Hon. D J Bossino:** No?

**Mr Speaker:** He cannot.

1635 **Hon. D J Bossino:** I thought he was just about to Mr Speaker.

1640 **Mr Speaker:** He cannot! I do not see where the census arises from any of these questions. I am sorry. None of the questions on the Order Paper have anything to do with the census and we are not going to inject new material that could keep us here till tomorrow. I am not having that, I am sorry. I am very sorry for hon. Members, but if they want to ask questions on the census, you put the census down on the Order Paper.

**Hon. D J Bossino:** But Mr Speaker, with respect, the answers that the hon. Member – I can refer to *Hansard* – has given in the past directly relates the skills audit to the census which was anticipated to be conducted by the time that he last answered these questions in October 2013, and he thought – because I think the questionnaires which were being sent out as part of the census project would elicit information which would be very useful to the Minister in finalising and producing the skills audit.

1645

So I think there is a very clear link in the answer that the Hon. the Minister has given in the past and I just wanted to know given – (*Interjection*) No, Mr Speaker, just so that there is a correlation with the previous answers which the Hon. the Minister has given in relation to this specific issue in the past.

1650

**Mr Speaker:** Okay.

**Minister for Enterprise, Training, Employment and Health & Safety (Hon. J J Bossano):** Mr Speaker, the census should have taken place in 2011. For reasons which are not very clear, it never happened. When they eventually got round to doing it, it was a lengthier exercise than anticipated and it has still not been put together, so the answer is that we still have no information on the result of the census.

1655

What I did say initially was that there is a difference between the information I am giving him because the information that I am giving him includes Frontier Workers and the census will only include the resident workers, but –

1660

**Hon. D J Bossino:** You have explained that before.

**Hon. J J Bossano:** Yes, I have explained that before. But it would give us another source of raw data to test against the resident workforce composition, which would enable us to, if you like, improve the accuracy of the information that we have got. But it is not available yet. I do not know how long it will take. Clearly the sooner we get it, the happier we will be.

1665

**Hon. D J Bossino:** But the Skills Audit will not be delayed as a result of the delay in relation to the census? The skills audit continues progressing and moving forward? Just so that I have that clear in my mind.

1670

**Hon. J J Bossano:** The audit is being done on the assumption that the data we have got is reasonably accurate. Once we get the census, we will be able to test whether it is or it is not.

**Q407/2014**  
**Registered unemployed –**  
**Figure for last quarter**

**Substitute Clerk:** Question 407, the Hon. D J Bossino.

1675

**Hon. D J Bossino:** Can the Minister for Employment state what the figure for registered unemployed is for the last quarter?

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

1680

**Minister for Enterprise, Training, Employment and Health & Safety (Hon. J J Bossano):** Yes, Mr Speaker. The average number of Gibraltarians registered unemployed in the first quarter of 2014 was 386. (*Banging on desk*)

**Q408-409/2014–**  
**Vacancies created by Sunborn Hotel –**  
**Places taken up by Gibraltarians, registered unemployed and FJS trainees**

1685

**Substitute Clerk:** Question 408, the Hon. D J Bossino.

**Hon. D J Bossino:** Can the Minister for Employment state how many vacancies have been opened by the Sunborn Hotel and how many of these have been taken up by Gibraltarians and how many are from the



1690 registered unemployed, stating the areas of unemployed activity that they are... involved in? 'Unemployed activity' – I am not sure why that...

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

1695 **Minister for Enterprise, Training, Employment and Health & Safety (Hon. J J Bossano):** I will answer the question together with Question 409, Mr Speaker.

**Substitute Clerk:** Question 409, the Hon. D J Bossino.

1700 **Hon. D J Bossino:** Can the Minister for Employment state whether any FJS trainees have been placed with the Sunborn Hotel since it started operations?

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

1705 **Minister for Enterprise, Training, Employment and Health & Safety (Hon. J J Bossano):** Mr Speaker as at the end of April 2014, the number of jobs filled by Gibraltarians in the Sunborn Hotel was 46. Of these, 25 had been registered unemployed.

1710 The areas of employment and the vacancies in the company is information that is not made public in respect of individual employers.

Up to the end of April 2014, three trainees were placed in the Sunborn Hotel. (*Banging on desks*)

1715 **Hon. D J Bossino:** Mr Speaker, in relation to Question 409, I think in his last answer he gave me dealing with trainees, he said that when the Sunborn is able to sit down with us and do a programme for training which will lead to maybe replacing some of the people that they have, because the training will presumably take more than just the short-term training that is now taking place, then if there are suitable candidates and people interested, we will be happy to provide the trainees and finance them.

Has he sat down with the Sunborn and is the programme for training up and running?

1720 **Hon. J J Bossano:** Well, other than the three trainees that I mentioned, that were there in April, in fact none of the three are there now. One lasted a week and the other two were given permanent jobs by the company! (*Banging on desk*)

1725 The reality of it is that in the areas that they are opening vacancies and recruiting people, there is no training at the moment because they have not found suitable candidates. They selected these three individuals themselves and, given that the three individuals expressed an interest in what was being offered, and that the company – in the interviews that they gave to the unemployed persons that we submitted – thought they looked like suitable candidates and was willing to take them on.

1730 As I say one person found after the first week that it was not what he thought it would be and did not want to carry on and therefore he left. The other two carried on and they finished in April and the company was happy with the performance they had and they were employed in May.

We are open, because clearly we want to give as many opportunities as we can to local people, but it is not easy. But if anybody is interested and the company thinks that they can make it, then we agree the level of training that is required, depending on the nature of the job and the previous skill of the person. So it is a one-to-one thing.

1735 But I have got somebody permanently on board the ship now, working with the Human Resources Department from the Employment Service.

1740 **Hon. D J Bossino:** Mr Speaker, in relation to that last point which was very interesting, so he has somebody from the ETB permanently with the Sunborn Hotel? What role is that person discharging? Can he be more specific in relation to that?

1745 **Hon. J J Bossano:** Well, of course, I will tell you why, he is trying to get as many Gibraltarians employed as possible! That is what his role is and therefore because he is there first hand, we are able to be sure that the people that we send get seen, if they need any advice from him. At the same time he provides assistance to the company in the process of registration, opening vacancies, making sure that everything is going smoothly. He is not going to be a permanent feature, but given that initially the company started with zero employees, in order to help them and help ourselves in reducing our unemployment figures, we placed somebody on board.

1750 **Hon. D J Bossino:** Is that individual a public servant or is he a trainee under the FJS?

**Hon. J J Bossano:** No, no, no. He is somebody on a HEO equivalent grade.

**Q410/2014–  
Health & Safety Inspectorate –  
Review of team, legislation, policies and procedures**

**Substitute Clerk:** The next question has been posed by the Hon. J J Netto. Is...?

1755 **Hon. D J Bossino:** I think I am doing that one.

**Substitute Clerk:** Question 410, the Hon. D J Bossino on behalf of the Hon. J J Netto.

1760 **Hon. D J Bossino:** Has the Government conducted any reviews of the Health & Safety Inspectorate team, the current legislation, its policies and procedures since December 2011, insofar as it applies to the private sector and Government's organisations and if so, provide Parliaments with the dates of the reviews, the name of the person or entity and details of the items examined and any implementation emanating from such a review?

1765 **Substitute Clerk:** Answer, the Hon. the Minister for Enterprise, Training, Employment and Health and Safety.

**Minister for Enterprise, Training, Employment and Health & Safety (Hon. J J Bossano):** No, Mr Speaker.

1770 **Mr Speaker:** Next question.

**DEPUTY CHIEF MINISTER**

**Q415/2014–  
Town planning legislation –  
Update on overhaul**

1775 **Substitute Clerk:** Question 415, this is the last question, Question 415, the Hon. D J Bossino on behalf of the Hon. S M Figueras. (*Interjections and laughter*)

**Hon. D J Bossino:** Does this make me Acting Leader of the Opposition? (*Laughter*) Acting Opposition. (*Interjections*) Let me relish the moment!

1780 Mr Speaker, can the Deputy Chief Minister update this House as to when the overhaul of the town planning legislation can be expected?

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

1785 **Deputy Chief Minister (Hon. Dr J J Garcia):** Mr Speaker, the review of the town planning legislation is proceeding well and is now at an advanced stage. The principal Act is almost complete. Then work will move to reviewing all the various Regulations, as the Government would like to introduce everything simultaneously.

## Questions for Written Answer

1790 **Substitute Clerk:** The Hon. the Chief Minister.

**Chief Minister (Hon. F R Picardo):** Mr Speaker I have the honour to table the answers to Written Questions W64 to W171 of 2014 inclusive.

### ADJOURNMENT

1795 **Chief Minister (Hon. F R Picardo):** Mr Speaker, I have the honour to move that the House do now adjourn.

1800 Whilst I do so, and in order to attempt to assist hon. Members with their own time planning, I want to inform the House that it is my intention after tomorrow when we deal with the Bills and the Motions that are outstanding, it is my intention to return to the House in June, not the third week but the fourth week, because the United Nations have given us notice that the session relating to Gibraltar will be held in the third week in June.

1805 I therefore intend to call the House for the 25th June, which will be a Wednesday, and to go through in those last three days of that week – the 25th, 26th and 27th – through any questions there may be and I just want to give the hon. Members opposite a ‘heads up’ that I intend to take the debate on the Appropriation Bill on Monday, 30th June.

I now move the House adjourn to tomorrow at 11.00 a.m.

**Mr Speaker:** I now put the question, which is that this House do now adjourn until tomorrow morning at 11.00 a.m. Those in favour? (**Members:** Aye.) Those against? Carried.

*The House adjourned at 6.45 p.m.*



# PROCEEDINGS OF THE GIBRALTAR PARLIAMENT

MORNING SESSION: 11.10 a.m. – 1.02 p.m.

Gibraltar, Friday, 30th May 2014

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# The Gibraltar Parliament

*The Parliament met at 11.10 a.m.*

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

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

## Order of the Day

### BILLS FIRST AND SECOND READING

#### Companies Bill 2014 – First Reading approved

**Substitute Clerk:** Sitting of Parliament, Friday 30th May 2014.  
Bills – First and Second Reading.

A Bill for an Act to re-enact, with amendments, the provisions of the Companies Act (1930-07) as amended; to incorporate the Companies (Accounts) Act 1999 and the Companies (Consolidated Accounts) Act 1999; to take account of the effect of the Insolvency Act; to incorporate amendments proposed by a Law Reform Committee of the Gibraltar Finance Centre Council; and for connected purposes.

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 re-enact, with amendments, the provisions of the Companies Act (1930-07) as amended; to incorporate the Companies (Accounts) Act 1999 and the Companies (Consolidated Accounts) Act 1999; to take account of the effect of the Insolvency Act; to incorporate amendments proposed by a Law Reform Committee of the Gibraltar Finance Centre Council; and for connected purposes, be read a first time.

**Mr Speaker:** I think this is probably the shortest Bill that I have seen in the last 40 years. (*Laughter*)

I now put the question which is that a Bill for an Act to re-enact, with amendments, the provisions of the Companies Act (1930-07) as amended; to incorporate the Companies (Accounts) Act 1999 and the Companies (Consolidated Accounts) Act 1999; to take account of the effect of the Insolvency Act; to incorporate amendments proposed by a Law Reform Committee of the Gibraltar Finance Centre Council; and for connected purposes, be read a first time.

Those in favour? (**Members:** Aye.) Those against? Carried.

**Substitute Clerk:** The Companies Act 2014.

#### Companies Bill 2014 – Second Reading approved

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

The Bill brings the Government's manifesto commitment in this area closer to completion by providing a much needed and thorough review of the present Companies Act and related legislation. It has been felt throughout the industry that the current Act is in need of a wholesale review to update it in line with the needs of the Gibraltar Finance Centre industry.

As Parliament is aware, the review involved consideration of proposals put forward by the Company Law Reform Committee, set up by the Finance Centre Council, and a consultation process which culminated in the publication of a Command Paper.

35 The Bill before Parliament today incorporates a number of issues which were also raised during the Command Paper consultation period. The process has involved input from the Association of Trust and Company Managers (ATCOM), Companies House, the Financial Services Commission, the Gibraltar Society of Accountants, Gibraltar Funds and Investments Association and a number of fund administrators, as well as individual legal practitioners.

40 Since the Bill was published, further representations have been received from the Gibraltar Funds and Investments Association relating to the filing requirements of certain regulated entities, and I will deal with that particular point later.

The aim of the Bill, Mr Speaker, is to consolidate and codify existing practices, as well as to modernise the current Act in preparation for, amongst other things, electronic filing at Companies House. The Bill is made up of 18 parts, 490 clauses and 29 schedules, and rather than go through these provisions one by one, the House will, I am sure, be very happy that I shall only refer to occasions where changes have been made to the existing provisions in the current Companies Act.

Mr Speaker, Part II of the Bill deals with formation of companies. This part of the Bill includes provision:

50 (1) Expressly allowing a company limited by guarantee and an unlimited company to have a share capital, which is current practice but not expressly provided in the law.

(2) Reducing the number of persons required for the formation of a public company from seven to one.

(3) Including a statutory definition of a public company.

55 (4) Removing the requirement for object clauses in a Memorandum of Association, resulting in a shorter form of memorandum. This follows from the presumption in clause 21(3), that a company is authorised to carry on any type of lawful business making redundant the requirement to list the types of authorised business in the memorandum.

(5) Allowing a company that is a collective investment scheme the option to formally notify the Registrar that it is a CIS within 30 days of establishment of the scheme. This option is based on submission received from the Gibraltar Funds and Investments Association. A further amendment was proposed by GFIA after the Bill was published and will be presented at Committee Stage. A letter setting out the proposed amendments has been sent to Mr Speaker and I understand circulated to all Members. It will be proposed that clause 18 be amended to include a subclause (2) which provides that any notification given pursuant to section 18 shall confirm whether the company is a private scheme as defined in section 2(1) of the Financial Services (Collective Investment Schemes) Act 2011. The reason for this is that there are distinct exemptions which apply, depending on whether it is a private scheme or otherwise. Collective Investment Schemes, which are not private schemes, are afforded more exemptions.

60 (6) Removing the current 50 member maximum for a private company, bringing our legislation in line with the equivalent UK Act. Section 369 of the current Act is also being repealed, so that a partnership with more than 20 members is no longer required to be incorporated as a company.

70 (7) Removing the requirement to file a statement of incorporation containing details of the first directors before the company may be incorporated.

(8) Setting out clearly the documents to be included in the company's application for registration. These include: a statement of capital and initial shareholdings, if applicable; a statement of guarantee, also if applicable; a statement of proposed officers; a statement of the intended address of the registered office; and a copy of the proposed Articles of Association.

Mr Speaker, Part III of the Bill deals with the Companies Constitution and powers. This part includes the following provisions:

80 (1) Defining a company's constitution as including a company's articles and any relevant resolutions and agreements. The current Act refers to Companies Constitution throughout, but without a definition.

(2) Providing that the validity of an Act done by a company shall not be called into question on the ground of lack of capacity of such company. The reason behind this change is that those dealing with the company should not bear the risk of the company claiming that dealings in question are *ultra vires* and therefore void.

85 (3) Empowering the Minister by regulations to prescribe model Articles of Association for companies. The current tables A to E will be replaced by model articles, which will only apply to companies incorporated after the introduction of those model articles. Clause 488 provides that until the model articles are introduced by regulation, tables A to E containing schedule 1 of the current Act will continue to have effect.

90 (4) Changing the time limit for sending amended Articles of Association to Companies House. This has changed from 15 days to 30 days, so as to standardise time periods throughout the Bill. A number of additional variations are made to this part regarding the changing of the company status, such as private

company to public company and vice versa. This conversion is currently possible, but is not expressly provided in the current Act. Public company to unlimited private company, company limited by shares to company limited by guarantee having a share capital, company limited by guarantee having a share capital to company limited by shares, and limited company to a company limited by shares or guarantee. There is also clarification as to the requirements to be satisfied by a company when executing deeds and documents.

Part IV of the Bill, Mr Speaker, deals with prospectuses, share capital and debentures. These include the following new provisions... or amended provisions:

(1) For an exception to collective investment schemes, which means that this type of company is not required to file returns of allotment at Companies House, there is a proposed amendment to this clause or clauses 188 and 189 of the Bill, pursuant to representations made by GFIA. In order to ensure that all collective schemes are caught, we have made reference to section 18, which is the obligation to notify the Registrar. This section captures all in Collective Investment Schemes (CIS).

(2) Amending the current prohibition on financial assistance so as to enable the company to give financial assistance for the purchase of its shares by another entity, so long as certain provisions are complied with. A private company can give financial assistance under the Bill if its net assets are not thereby reduced or to the extent that they are reduced, if the assistance is provided out of distributable profits. A company looking to provide financial assistance, unless it is a wholly-owned company, will be required to (1) pass a special resolution; (2) cause the directors to make a statutory declaration; and (3) engage an auditor to prepare an auditor's report confirming the statutory declaration.

It should be noted that: (1) the definition of what constitutes 'financial assistance' has been tightened to reflect the position under the UK's 1985 Act by the inclusion of the words 'or any of its subsidiaries'; (2) the proposal is to reflect the position, as I have said, under the 1985 Act, in spite of the fact that in 2006 the prohibition was relaxed in the UK. This, Mr Speaker, is an area on which I have had some correspondence with the Hon. Mr Damon Bossino, and I have explained the rationale for the decision that has been taken to introduce what are essentially termed 'white-wash provisions', rather than removing the prohibition of financial assistance altogether, and I will be happy to deal with any other points that Mr Bossino may raise in connection with this in my response; (3) a CIS will no longer be required to deliver a return to the Registrar when purchasing its own shares; (4) all companies having a share capital will be able to use fractional shares, unless prohibited under its constitution; (5) creating an exemption for CIS's in relation to the need for a notice to the Registrar of consolidation of share capital and conversion of shares into stock – again, there is a proposed amendment to this clause at Committee Stage; (6) the introduction of a new type of protection for Members against being unfairly prejudiced. A Member or the Minister may apply to the Court where such Member feels that the company's affairs have been conducted or are proposed to be conducted in a manner that is unfairly prejudicial to the interest of Members, generally or some part of the Members. Clause 147 sets out the type of order that the Court may make if it finds the petition to be successful, including ordering the company to refrain from doing any act complained of. These clauses have been largely taken from the UK Act. The reason for this change is to bring the protection of Members in line with that which exists in the UK; (7) a new requirement is introduced that all companies, except for a company which is a CIS, file the prescribed form at Companies House within 30 days of any change in its members or in any of the particulars contained in the register of members. Currently there is no statutory provision for the filing of a change of members; (8) a statutory basis is created formalising the current practice of allowing the redenomination... no. (*Interjections*) (**A Member:** Re-domiciliation.) The redenomination of share capital... it is not domiciliation. (*Interjections*) It was the other one. (*Laughter and interjections*); (9) the removal of all references to bearer shares as a result of the abolition of share warrants to bearer implemented by the Companies, Partnerships and Trusts (Miscellaneous Amendments) Act 2012.

Mr Speaker, Part V deals with the registration of charges. In this part there are amendments to the time period for registration of charges created by companies registered in Gibraltar.

Clauses 168 and 171 extend the period for registration of charges by companies registered in Gibraltar from 21 days to 30 days. The period for charges over property situated outside Gibraltar has also been extended from 21 days to 30 days after the date on which the instrument could have been posted. The Bill still contains a discretion given to the Registrar in cases of late filing of documents received from abroad.

Clause 168 also clarifies the law which emanates from the Slavenburg case.

Section 128 of the current Act requires registration of every charge created by a company registered in Gibraltar. This includes companies registered in Gibraltar under Part X, which is a place of business registration, or Part XIV, which is branch registration.

Since the Slavenburg case, it has also become common practice to present for registration charges over present or future property in Gibraltar created by overseas companies which do not have an established place of business or branch in Gibraltar. If the company is not registered as a branch or place of business in Gibraltar, Companies House will make note of the documents sent and return them to the sender with a standard form of letter as proof of delivery, but the documents will not be registered. This practice was also carried out in the UK, but was removed as a result of section 105(2) of the UK Act.



Clause 168(11) makes it clear that only charges which are created at a time where the company is registered in Gibraltar shall require registration.

155 Currently there is no statutory procedure for the registration of charges by a company which re-domiciles into Gibraltar from another jurisdiction, with existing charges or mortgages registered against the company.

160 Clause 168(8) of the Bill includes provision for the registration of existing charges of re-domiciled companies and clarifies that the time period for registration commences the day after the company is registered in Gibraltar.

Mr Speaker, Part VI of the Bill deals with management and administration. Provisions under this part include the following:

165 (1) Formalising the current practice of the filing of statements at Companies House in relation to the authority of a company to use a registered address. There is currently a form which can be filed at Companies House, entitled 'Statement that the company does not have authority to maintain a registered address at specific premises'. There is, however, no statutory authority to allow for this notice. We are therefore plugging this gap.

(2) Amending the requirement that a company display its name outside its office to require such display at every office – in other words, not necessarily outside the office.

170 (3) Regarding annual returns, clause 188 of the Bill remains largely unchanged from the equivalent section 153 of the current Act, except that it provides an extended period of six months instead of 30 days after the date on which the return is made up for Collective Investment Schemes to deliver the annual return to the Registrar. Amendment exempting certain CIS's from certain obligations in relation to annual returns will also be proposed at Committee stage. These amendments are, as I have mentioned, the result of representations made by GFIA and they have followed discussions with Companies House.

175 As I have already mentioned, Mr Speaker, GFIA made a number of proposals following which, and after extensive deliberation with leading individuals in the Fund industry, it has been decided that the following amendments be considered at Committee stage: (a) subclause 188(6) introduces an exemption for Collective Investment Schemes which are not private schemes. These funds will be exempt from the requirement to provide the information listed in clause 188(4) in relation to its members in the annual return; and (b) an exception has been inserted at clause 189(2) so that only private schemes are required to submit a statement of allotment, redemption and purchase of its own shares.

180 GFIA's reasoning for these proposed amendments is that EIFs and other such funds are regulated by the Financial Services Commission and as such they are already under an obligation to submit information to the Commission in relation to their members. CIS's which are not regulated are under no obligation to submit information and therefore should submit the same information under the Bill as non-CIS companies, and the Government has agreed with the proposals submitted by GFIA and with a reasoning and rationale for those proposals. That is why we are making those amendments to the Bill which are set out in the letter.

185 Mr Speaker, clause 197 of the Bill has been taken directly from section 309 of the UK Act, which sets out the requirement where a company wishes to notify the members of a meeting via website. The reason for this change is to bring the Bill in line with the UK Act and give companies the option to use technology as a means of communication with its members. There are similar provisions, including allowing for members to signify written approval by electronic means, allowing for the sending of documents relating to written resolutions by electronic means, and for the publication of written resolutions on websites.

190 (5) The current Act refers to ordinary resolution throughout, but does not provide a definition of the term. Clause 200 of the Bill codifies the definition which is actually used in practice, namely a resolution passed by members representing a simple majority of the total voting rights of the members.

(6) Clause 205 provides that where a company's articles prohibit the company from passing a resolution in the form of a written resolution, such provision in the articles shall be void.

200 (7) The time limit for the filing of resolutions is increased from 15 days to 30 days from the date of the resolution.

(8) Clause 231 of the Bill provides a new power to any person, not including the company, to indemnify a director against any liability which by virtue of any rule of law would otherwise attach to him in respect of any negligence, default, breach of duty or breach of trust of which he may be guilty in relation to the company.

205 Additionally, clause 231 allows companies to purchase insurance for a director of the company, which is in addition to the existing power of a company to indemnify any director against any liability incurred by him in defending any proceedings, whether civil or criminal, in which judgment is given in his favour or in which he is acquitted. This clause clarifies that the rule against indemnifying an officer of the company does not preclude the company from taking out directors' and officers' liability insurance.

210 The new powers contained in clause 231 are not provided in the current Act. This change is as a result of one of the many proposals put forward by the Company Law Reform Committee of the Gibraltar Finance Centre Council.

215 (9) Clauses 232 to 236 create a statutory basis for the remedy of a derivative action. I know the Hon. Sir Peter Caruana was particularly interested in this area. These new clauses allow a member to bring an action on behalf of the company in respect of a cause of action arising from an actual or proposed act or omission involving negligence, default, breach of duty or breach of trust by a director of the company. In order to bring a derivative action under the Bill, a member must apply to the court on behalf of the company for permission to continue such action. A derivative action may be brought only in respect of a cause of action  
220 arising from an actual or proposed act or omission involving, as I have said, negligence, default, breach of duty or breach of trust by a director of the company.

Mr Speaker, Part VII of the Bill deals with accounts and audit. This part consolidates the Companies (Accounts) Act and the Companies (Consolidated Accounts) Act, within the Companies Act. It seeks to remove any ambiguity which existed between these Acts and the current Act, as well as removing any  
225 inconsistency which existed with any other legislation, notably the Income Tax Act 2010.

Part X of the Bill deals with liquidation. This part is divided into two chapters: voluntary liquidation and other liquidation provisions. Mr Speaker, as a result of the new Insolvency Act 2011 and the Insolvency (Consequential Provisions) Bill, which I will be moving later on in this session, all of the insolvency provisions in the current Act have been transferred to the new Insolvency Act 2011. The Companies Act  
230 will therefore only cover voluntary liquidations. Where a voluntary liquidation becomes an insolvent liquidation, the Bill provides that at that stage the Insolvency Act will apply.

Under clause 362(2) and (3) of the Bill, the directors of a company are required to comply with the following requirements when making a statutory declaration of solvency: (1) They must make the declaration within five weeks before the date of the passing of the resolution for the appointment of a  
235 voluntary liquidator; and (2) they must deliver the declaration to the Registrar for registration within 15 days after the date on which the resolution for winding up is passed.

Clause 362(4) of the Bill introduces an offence with a penalty of up to two years' imprisonment where a director makes a declaration without having reasonable grounds for giving such a declaration. This offence is inserted so as to ensure that directors do not sign the declaration, which is a declaration which could have  
240 very serious consequences for the company, without considering its content and validity fully.

Part XI, Mr Speaker, of the Bill deals with general provisions as to registration.

Clause 413 provides for a new requirement whereby the directors of a company must state in an application to strike off a company that the company has no assets or liabilities. This change clarifies the procedure for voluntarily striking off a company and is in line with common practice.  
245

Clause 421 of the Bill introduces new requirements in relation to the authentication of a document sent to the Registrar.

Clause 421(3) details how a company is to authenticate a document supplied in electronic form. This clause is introduced so that companies may take advantage of the e-filing platform being developed by Companies House.  
250

Clause 422 of the Bill allows the Registrar to impose requirements as to form, authentication and manner of delivery of documents which are to be delivered to the Registrar.

Part XII of the Bill deals with companies incorporated outside Gibraltar, carrying on business within Gibraltar.

255 Clauses 436 to 438 of the Bill clarify the requirements in respect of the execution of documents by foreign companies. These allow foreign companies to execute documents and deeds by (a) affixing its common seal; or (b) by any person who, in accordance with the laws of the territory in which the company is incorporated, is authorised to do so.

Part XVIII of the Bill deals with miscellaneous provisions. This part includes provisions regarding the sending or supplying of documents or information setting out requirements that need to be fulfilled, be it in a document sent in hard copy or electronically, creating a right for a member to request a hard copy of a document and setting out the requirements for the authentication of documents – again being in hard copy or electronic format.  
260

Clauses 488 to 490 of the Bill set out the transitional provisions, consequential amendments and repeals arising from the provisions of the Bill.

265 Mr Speaker, I move to schedules. The schedules to the Bill are largely the same as those in the current Act, with a few exceptions, and includes those schedules taken from the Companies (Accounts) Act and the Companies (Consolidated Accounts) Act, which are being repealed.

Schedule 5 deals with annual return. The form of annual return has been amended so that a company must also confirm the main activity of the company, the size of the company, the number of employees and its financial year end.  
270

Schedule 9 deals with definition of a small, medium and large company. The definitions of these companies have been amended to be brought in line with EU definitions.

Schedule 23 deals with powers of a voluntary liquidator. This schedule is taken from clause 54 of the Insolvency (Consequential Provisions) Bill, which I will be moving later, and sets out the powers of a voluntary liquidator.

Schedule 28 deals with index of defined expressions. This schedule contains a table which sets out where to find definitions of terms used throughout the entire Bill.

Mr Speaker, that concludes my run through of the Bill, in particular the new provisions of the Bill and what this actually does. It is in fact, Mr Speaker, very satisfying for the Government to see the vast amount of work, which has been put in over more than two years, approach fruition by the consideration of this Bill by Parliament today.

I mentioned at the outset, the Second Reading of this Bill, the various organisations which had been involved in this process and I would like to publically thank them all. It would simply not have been possible to undertake this task without their expertise and effort. In particular, I would thank those involved in the Company Law Reform Committee of the Finance Centre Council, who initially set out to consider the existing Companies Act and to make a substantial number of proposals to improve our legislation and that is precisely what we are doing today. We will now have a modern, up-to-date and comprehensive Companies Act, which will give all practitioners the tools required to service the needs of a finance centre in a jurisdiction that can be regarded as a model of excellence for the whole world.

Finally, I wish to thank all practitioners, both in Government and the team at Hassans led by Ian Felice and Gemma Vasquez, who have put this Bill together in an extensive drafting exercise. They have had to endure numerous requests by me for explanations and clarifications as we painstakingly went through each provision of the Bill.

Mr Speaker, it will be clear to hon. Members that this is not just a re-enactment of the current Companies Act with a few tweaks or amendments. This is a complete overhaul by way of a new Act. The Government recognises that it will take some time for practitioners to get to grips with the full effect of the Act. It is therefore now the Government's intention – apart from the fact that the Bill was published some time ago and a Command Paper was also published – that practitioners should be given around three months to fully familiarise themselves with the legislation and the related insolvency legislation before they are commenced. We are therefore proposing to commence the legislation, both this and the insolvency legislation, on 1st September 2014.

Mr Speaker, I commend the Bill to the House. (*Banging on Desks*)

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

**Hon. D J Bossino:** Yes, Mr Speaker.

This is a bit of a baptism of fire, given that I was only given responsibility for financial services on my appointment by the Leader of the Opposition as Deputy Leader about a month or two ago. Some would say that it is a hospital pass, given that this is a Bill which runs into almost 900 pages. But, Mr Speaker, simply to be... the introductory comment would be that I am grateful to the Hon. Minister for going through this very lengthy piece of legislation in summary form, in redacted form. I think that is something which will be welcomed by everybody in this House, and highlighting simply those changes to the current Bill, which in fact originally dates from 1930, based on the 1929 legislative provisions in England and Wales.

I would also, Mr Speaker, like to associate myself with the comments made at the end by the Minister, in terms of acknowledging the assistance provided by the Law Reform Committee and other groups, such as ATCOM that he mentioned at the beginning, Companies House and the Financial Services Commission. He talked about the Gibraltar Accounts Association and others, and indeed, those professional competitors in Hassans, who I see sitting behind the Government benches now, to also acknowledge their assistance in this.

Mr Speaker, this is certainly welcome from the Opposition benches as a legislative initiative on behalf of this Government, one which I am sure will also be welcomed by many practitioners in the field, such as myself as somebody who deals in company matters, if I can put it in the broadest terms possible.

The Minister is absolutely right in saying that this is a particular area of the law which is crucial to one of those central sectors of our economic activity that is the finance centre and obviously all the ancillary services which are provided to it. They are very important services provided by the legal profession, accounting professions and I can think of corporate service providers and fund managers, for example.

The introduction of this Bill into our Statute Books is very positive and indeed complements in a very useful way, I think. I think it has to be acknowledged by everybody the sister legislation to this particular Act or Bill, which is the Insolvency Act, which was introduced by the Leader of the Opposition when he was Minister for Justice when we were on the other side of the House, which is also another very important piece of legislative initiative in this particular area of activity.

I would highlight a few of the points. One of them has already been acknowledged by the Minister in his address and I would welcome in his reply any further comments he may wish to make in relation to financial assistance.

But if I could deal first with the provisions – he and I have discussed this behind the Speaker’s Chair in recent days – set out in clauses 72 onwards, under the heading ‘*Execution of documents by companies*’. I have had some difficulty when reading those provisions, although I derive comfort from the fact that it appears that this wording is already the subject of settled interpretative law in that, as I understand it, there is – and I have not read the Act in any detail – a Supreme Court decision of England and Wales which deals with this matter. I just found it rather strange, Mr Speaker, the provisions, particularly if I could highlight Clause 72(1) and then the subclause to that which is (2). Clause 72(1) states that a contract may be made (a) by a company, by writing under its common seal or on *behalf* of a company – not by a company. The wording is slightly different and I raise that because that featured in the Supreme Court decision which I referred to earlier and which was referred indeed rather hopefully by the Minister to me when we have had these discussions. So on behalf of a company, by a person *acting* under its authority, express or implied. Presumably that is a contract, as I see it, which would be entered into orally, for example; however, it may not necessarily exclusively deal with that and I see that the Hon. Minister shakes his head.

If a contract is then reduced to writing and therefore becomes – I am just reading on the face of the language of the Bill – a document, under clause 72(2) it says a document is validly executed by a company if it is signed on behalf of the company (a) by two authorised signatories, or; (b) by a director of the company – and this is the important bit, Mr Speaker – in the presence of a witness who attests the signature. Those of us who deal in this area of law and have to provide opinions to banks and other clients, the position – and I think it is correct advice that I have certainly been providing – is that if it is an ordinary contract, i.e. if it is not a contract which is entered into, for example, by way of deed, then the signature of a director, or indeed an authorised signatory, is sufficient without the requirement of that signature being witnessed. I see that as an added burden, which does not currently exist in the Companies Act which we have today, and that is something I would welcome the Hon. Minister’s views on to be placed on record across the floor of the House, because I am sure that that will be of assistance to those of us who deal in this area of the law.

Mr Speaker, moving on swiftly to clause 100, I believe it is, under the Bill, which deals with the prohibition of financial assistance. This is also a point which I raise with the Hon. Minister and the point I raise is that in England, under the 2006 Act currently in force in England and Wales, the prohibition has actually been removed insofar as it impacts on private companies. As I understand it, the position in respect of plc’s – public limited companies – still exists, but as far as private companies are concerned, Mr Speaker, it has been removed.

The information that I received is that that was a reaction by the legislators in the United Kingdom to complaints made by those petitioners in the field as to the expense in complying with the white-wash provisions which now apply under this Bill, i.e. the Minister went through it... the requirement to have a shareholders’ resolution, the requirement to have a statutory declaration, presumably in relation to solvency and also the requirement in particular of having an auditor’s report. Those did not exist in our current legislation. They do not exist in our current legislation. They have been introduced in this Bill and in fact they have now been removed as a result of the 2006 Act in the United Kingdom.

From speaking to the Hon. Minister, I am sure he will not mind if I say so, the decision-making process which has influenced him in coming up with the wording in the current Bill is not as a result of any Government policy decision, but in fact simply responding to the various representations which he has received. He has explained to me and I would give him... certainly welcome him to explain the position, no doubt far better than I, that what was placed in the balance in England was that there was a codification of directors’ duties, directors’ duties which were in any event prevalent there as a result of developments of the common law, but they were actually formally codified in the legislation in England in the 2006 Act. If that had been done... if that particular route had been taken by the Government on this occasion, it would also have required the imposition of offences and that is something which is placed in the balance and therefore it was felt that it was better to retain the pre-2006 position in England and Wales and retain the whitewash provisions, despite the alleged cumbersome nature of them, because there was a reticence to impose offences in relation to those directors’ duties. I would welcome the Hon. Minister’s contribution in relation to that particular point.

And simply to mention finally two minor points. One is very close to my heart, in terms of the area of law ID, the codification of the Slavenburg register, and I think that is something which is going to be very much welcomed for those practitioners in this field. I think that if Companies House has had a difficulty when we as a matter of practice have tried to follow the route, which is now codified from my understanding of the Bill and what the Minister has explained... they have had a difficulty in accepting those notifications from practitioners. Now it is clearly set out and it is clear for all to see that that is the

procedure set out in statute and I very much welcome that, certainly from a personal perspective as somebody who deals in matters like this.

395 Also, I found very interesting the new clause 197, which adopts the practice in England, in relation to the publication of notice of meetings on a website. I am sure that is also something which will be welcomed by practitioners.

Mr Speaker, that is the end of my contribution. I am not sure if the hon. the backbencher wants to say anything.

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

**Hon. D A Feetham:** Mr Speaker, just to say this, that in the past I have said that I could not have hoped for a better successor as Minister for Justice than the hon. Gentleman. I think that the work that he has done in that area justifies the view that I have expressed publically within the House. I commend him for the work.

405 It is one of the quirks of politics and living in a small community, such as Gibraltar, that effectively when the hon. Gentleman opposite won the last election, that the hon. Gentleman, Mr Licudi, and myself effectively switched roles. I inherited his legal practice within Hassans and he inherited my role as Minister for Justice. Just as I am bringing hopefully to a successful conclusion many of the cases that he began when he was a legal practitioner, I congratulate the hon. Gentleman too for bringing to a successful conclusion some of the work that we had commenced when we were in Government and I was Minister for Justice. Not only has he done so in commencing the Criminal Procedure and Evidence Act and also the Crimes Act, but also now this particular Act enables him to commence the Insolvency Act. I wish to just stand up and recognise it and commend the hon. Gentleman for it.

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**Mr Speaker:** Does any other hon. Member wish to contribute before I call on the mover to reply?

**Minister for Financial Services and Gaming (Hon. A J Isola):** Mr Speaker, very briefly as Minister for Financial Services and working with the sector as closely as I do, I have to say that I am absolutely delighted by the presentation of this Bill by my Hon. and Learned Friend. I think he does a quite stunning job in bringing together not just the private sector by itself – in other words, all the individual component parts that are often pushing in different directions – but to bring the regulator on board, to bring Companies House on board, to bring all the different facets all in almost unanimous praise of the work that he has done, I think is quite a staggering achievement.

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This Bill is hugely important to the industry, because it provides them with clarity, it provides them with certainty and as the Hon. the Shadow Minister for Financial Services has said, quite rightly, it is a key component part of the work and one of the tools that the sector relies on to be able to go about its business. To bring it up to date, to consolidate it and at the same time to bring amendments, which the sector has specifically requested, is an example of the partnership that we are all trying to engage in with the private sector that we work in to bring about the necessary tools for them to go about doing their business.

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So I certainly commend the Bill and I congratulate my Hon. and Learned Friend for the quite fabulous work that he and his team have done in bringing us this Bill today.

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**Mr Speaker:** The Hon. the Chief Minister.

**Chief Minister (Hon. F R Picardo):** Mr Speaker, very often in this Parliament we have had to endure in the past 30 months – this is, I think, our 23rd meeting of Parliament since we were elected – calls from the hon. Gentlemen to look at where we have made progress in our manifesto and where we have not. So I think it is incumbent on me to raise the point they might have been raising if we were at the last meeting of the lifetime of this Parliament and we had not brought this Bill, which would have been on page 66 of our manifesto. We say that we are committed to revising our company legislation and adopting a new, consolidated and revised Act as soon as possible and this is in full compliance with that commitment. It reflects yet another one of the commitments that we acquired at the General Election fulfilled, and fulfill House, Mr Speaker, as I think the House unanimously agrees, in fantastic and excellent fashion.

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Mr Speaker, apart from giving the Hon. the Deputy Chief Minister another good reason to tick a box and issue a detailed press release reminding Members opposite and the rest of our community just how much progress we are making in the delivery of our manifesto, this Bill demonstrates also of course something else. Gilbert Licudi is not just, in my view, a worthy successor to those who have come before, he is undoubtedly and without a shadow of a doubt one of the greatest Ministers for Justice that Gibraltar will ever see.

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But (*Laughter*) he is not Minister for Financial Services at the moment, Mr Speaker, and neither is he Minister for Finance, and yet this is a Bill that he started working on when he was Minister for Financial

455 Services. He brings it to the House a year after having moved on from that portfolio, demonstrating the collegiate way in which this Government works, in a cross-Ministerial way, always ensuring that we deliver for our community in the best possible way and in our collegiate fashion with full Cabinet responsibility being something that all of us are very much aware of.

460 Mr Speaker, I want to say a few words about some of the people who have been in his team. They are the lawyers I have been working with since they arrived at Hassans as baby lawyers and they have done an excellent job in working with Mr Licudi on this.

I commend, of course, the Bill to the House. I will be very pleased to see the House support this Bill unanimously.

465 **Mr Speaker:** The Hon. Mr Gilbert Licudi.

**Hon. G H Licudi:** Mr Speaker, I am very grateful for the comments that have been made today in the House and in fact very flattered to receive those comments, not just from my colleagues in Government, but also from the Opposition benches.

470 It is true, as I mentioned at the beginning, that this is not the work of one man or one Minister, by a long, long shot. This is the collective work of not just the professionals, who have assisted in actually putting it together, but a great many individuals, practitioners and professionals, who have been involved for two and a half years in the process of consultation, collaboration, advice and assistance for the Governor, and once again, I express my gratitude to them all. It is really a tribute to them that in a Bill that we have before the House, which runs to almost 1,000 pages, that does not just re-enact the current  
475 legislation that brings in substantial new provisions and amendments, that in all of those there should be so little – in fact nothing between us – but so little by way of comment or issues that need clarification. It really is a testament to the excellent work that has been done by those who have put this together. It is a tribute to them that that is indeed the position.

480 The hon. Member opposite, Mr Bossino, has raised in particular two issues, and those are the same two issues that we have already been in correspondence with. I have provided explanations for the views taken by the Government on this and I will be happy to provide those again. The two issues he raises are in relation to the execution of documents provisions at clause 72, etc, and in relation to financial assistance provisions at clause 100.

485 In relation to the execution of documents, as the hon. Member has acknowledged, this has been taken from the equivalent provisions in a UK Act – not the most recent provisions that exist in the UK. Those are reflected in the 2006 Act which remove...sorry, that is in relation to financial assistance, but this is taken from the 2006 Act, the execution of documents provisions. The 2006 Act. So they do reflect the most up-to-date practice, legislative practice in the UK. They have been in place since 2006. So for eight years now the UK has had these provisions and, from what I am told, they work well and do not impose any particular  
490 onerous burden.

It is also worth mentioning that this was one of the specific proposals that was made by the company Law Reform Committee of the Finance Centre Council. They proposed that these particular provisions from the 2006 Act be adopted and taken for Gibraltar. Not only was it a proposal from the industry, but following publication of the Bill, and also in relation to the Command Paper when we published a draft of the Bill and invited comments, we did not have any particular issues of concern raised as this creating an added burden.  
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I am assured that this creates a clearer scenario as to what is required to be done in relation to the execution of documents. I know, and certainly from discussions with my colleague, the Minister for Financial Services, I know that he has had issues as a practitioner in the past as to what the current provisions in the Companies Act and what the current practice actually should be and there has been some disagreement between practitioners. So there was a need and that is why the proposal was made in the first place. There was a need to clarify the position and make it crystal clear. Given that this was a proposal by the Committee, it was a proposal that I accepted. It seemed to make sense and I asked that the drafters include this in the draft bill that was presented to me. When I saw it, I must say that I raised exactly the same points that the hon. Member has raised in relation to these provisions, because it did seem to me at  
500 first blush that the requirement for certain documents to be signed by a director with a witness may, in certain circumstances, be more onerous. In response to the raising of that issue, a specific paper was prepared for me in relation to these provisions and I have in fact shared that paper that was prepared for me a number of months ago. I have shared that paper with the hon. Member and that paper refers to the decision in the UK Court which sets out the jurisprudence which has been developed as a result of these  
505 provisions.

510 The crucial issue which arises from that jurisprudence and in fact it is on the face of the sections, or the provisions, is the distinction as to whether a document is signed by a company or on behalf of a company. I am assured that as a result of what the provisions say, the statutory provisions, the interpretation of those provisions by the Court already in England is that for the most part most of the documents, including

515 contracts, and not just oral contracts, written contracts by a company are signed on behalf of a company,  
 although it is true that the judges do say in that case that sometimes it is an artificial distinction as to  
 whether something is done by a company or on behalf of a company, it is always done on behalf of a  
 company because you cannot get a company with a pen and write itself. A company officer can put a seal  
 520 and that signifies that it has been done by the company, but if something is done without a seal, signed by  
 somebody on behalf of the company, in the main will be regarded as a document signed on behalf of the  
 company, even if it is signed by a director.

There is provision in section 72 that where a document or contract – it does not distinguish between oral  
 and written, so it must include written contracts – is signed on behalf of a company, as long as that person  
 has authority to sign and expressly it is provided that that authority can be expressed or implied in the  
 525 normal course of events and we are all familiar with those provisions, as long as that is the case, it is  
 sufficient for one person, the authorised person, to sign that contract on behalf of the company. That is the  
 analysis that has been made for me. As I have said, this originates from the industry. It is already  
 established practice in the UK. It seems to be working well and therefore we have decided, for the sake of  
 certainty, to produce that.

530 It also provides, as I have mentioned to the hon. Member that although we could take issues on board  
 and say, ‘Well, let’s make it even clearer. Let’s change a word here or a word there’, that may well destroy  
 the jurisprudence that comes out of the UK if we do not reflect the wording that is being interpreted by  
 Courts in the UK. So it is always useful. We do not have to slavishly follow what the UK does in any Act,  
 but when we are adopting those provisions, it is useful to follow the words because then the jurisprudence  
 535 from the Courts will be applied equally in Gibraltar and that is always a useful provision. So the  
 Government is satisfied that this is what the industry wants and that it works well. It has been shown to  
 work well and so we have no particular concerns about those added burdens that the hon. Member  
 mentions.

540 The other point is in relation to financial – (*Interjection*)  
 I am happy to, yes.

**Hon. D J Bossino:** Yes, Mr Speaker, I am grateful to the Hon. Minister for giving way.

Simply to point out the point that I intended to make when I made my contribution, but it escaped me,  
 and acknowledge that other than the issue that I have raised in relation to clauses 72, etc, in relation to  
 545 execution of documents, acknowledge that what is there now is by far a huge improvement to what is the  
 position in the current Act, which is, I think, section 47. I think it does provide for clarity, which is certainly  
 not there under the current legislation. I am grateful.

550 **Mr Speaker:** I now put the question –

**Hon. G H Licudi:** Sorry, Mr Speaker, I have not finished dealing with –

**Mr Speaker:** Sorry.

555 **Hon. G H Licudi:** I just gave way to the hon. Member.

I was just seeking clarification on one particular point, if I may?

Mr Speaker, the other point that the hon. Member raised is the question of financial assistance and that  
 is an issue that has been live with practitioners for a number of years and what changes should be made to  
 that. We pondered on the various options. The options that we had available was to adopt the provisions  
 560 that are currently contained in the 1985 Act in the UK which are essentially what is generally called the  
 white-wash provisions, whereby a procedure can be followed to make things right, or to remove the  
 prohibition on financial assistance altogether as they have done in the 2006 Act.

The advice that I was given, which I have also shared with the hon. Member in terms of what I was told,  
 was that coupled with the removal in 2006 was a codification, as the hon. Member has already alluded to,  
 565 of directors’ duties in the UK Act – in Gibraltar we have not gone as far as codifying all directors’ duties  
 and we will continue to rely on common law provisions – and because there were specific statutory duties,  
 it appears that in the UK it was felt that that should be sufficient protection and therefore there was no need  
 to keep the prohibition on financial assistance. That is why they moved down that route in 2006.

In Gibraltar, we have had consultation with practitioners. We have looked at the provision extensively  
 and eventually we decided that the better option was to go for what they had previously because we are not  
 570 codifying those directors’ duties in the Act and therefore we are following the 1985 Act. As the hon.  
 Member has said, this is not something specifically as a matter of policy of the Government. There is no  
 particular policy; it is just doing what is best for the jurisdiction and for practitioners and what works well.  
 We will now have a provision which will allow the white-wash procedure, subject to certain steps being  
 575 taken. And, yes, it is true, as the hon. Member has said, that certain steps will have to be taken and that will

incur some time and sometimes some expense, but that is what we have felt is the best option for the industry in Gibraltar, having regard to what they have done in the UK more recently and the reasons why they did it and we have not followed fully what they have done in the UK in this. So that is the explanation in relation to financial assistance.

580 It simply remains for me again to thank all hon. Members for their contribution, for their very positive contribution to this and for the fact that this has been welcomed by the whole House.

**Mr Speaker:** I now put the question, which is that a Bill for an Act to re-enact, with amendments, the provisions of the Companies Act (1930-07) as amended; to incorporate the Companies (Accounts) Act 1999 and the Companies (Consolidated Accounts) Act 1999; to take account of the effect of the Insolvency Act; to incorporate amendments proposed by a Law Reform Committee of the Gibraltar Finance Centre Council; and for connected purposes, be read a second time.

Those in favour? (**Members:** Aye.) Those against? Carried.

590 **Substitute Clerk:** The Companies Act 2014.

**Companies Bill 2014 –  
Committee Stage and Third Reading to be taken at this sitting**

**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 this Bill be taken later today, if all hon. Members agree.

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

**Insolvency (Amendment) Bill 2014 –  
First Reading approved**

**Substitute Clerk:** A Bill for an Act to amend the Insolvency Act 2011.  
The Hon. the Minister for Education, Telecommunications and Justice.

600 **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 Insolvency Act 2011 be read a first time.

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

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**Substitute Clerk:** The Insolvency (Amendment) Act 2014.

**Insolvency (Amendment) Bill 2014 –  
Second Reading approved**

**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 Insolvency Act 2011 be read a second time.

610 Mr Speaker, as we have already heard this morning, this arises from a need to make certain changes, minor changes to an Act, which was passed by Parliament in 2011. The Insolvency Act is also an extensive Act, which was passed by my predecessor, the Hon. the Leader of the Opposition, when he was Minister for Justice and certainly a great deal of work went into putting that together as well and that must be acknowledged today.

615 The Bill was passed, as I seem to recall, in June 2011, but it has not been commenced yet, and it has not been commenced for a number of reasons. Firstly, there was a need to finalise the drafting of a number of pieces of regulations and rules. There are in fact six Rules and Regulations – I will go through them later – which required to be finalised, and those are now just about in the final form. There was a need also to pass, apart from this Bill, the other related Bill which I will be moving today, which is the Insolvency



620 (Consequential Provisions) Bill. That, in the form that it was previously, made amendments, necessarily  
made amendments to the existing Companies Act and we felt that it made no sense when we were  
overhauling the Companies Act, for the sake of saving one or two months... or three or four months, to  
introduce these provisions and to commence the Insolvency Act, make wholesale amendments to the  
Companies Act as it is and then come back to Parliament a couple of months later and make all those  
625 amendments again to reflect the changes in the new Companies Act. So that did not make sense. It made  
sense, we felt, to put it all together as one overall revision of companies and insolvency legislation. Part of  
it had already been enacted in 2011 and the rest we are doing today.

In the same way as it is proposed that the Companies Act be commenced on 1st September 2011, we  
will be publishing very shortly the various pieces of regulations – not commencing them, but just  
publishing for public knowledge – and again to give practitioners the opportunity to get to grips with the  
630 whole new regime, the whole new insolvency regime, which will commence at the same time as the new  
Companies Act on 1st September this year. In relation to this particular Bill, Mr Speaker, this is in the main  
a housekeeping Bill in that it introduces changes, which are necessary or desirable to the Insolvency Act  
2011 as a result of the provisions of the Companies Act which we are enacting today, and in order to make  
a number of minor corrections to the Insolvency Act 2011.

635 The Bill also introduces a number of changes arising from decisions which we have taken since we have  
been in Office, following consultation with the practitioners in the field of insolvency.

The amendments consequent to the enactment of the Companies Act consists simply of updating of  
references in the Insolvency Act to the new Companies Act because the existing Companies Act clearly  
was done having regard to the existing Companies Act and some of the terminology will need to be  
640 changed. So what we are doing is generally ensuring that there is consistency of terminology between the  
two pieces of legislation – the existing Insolvency Act and the new Companies Act.

There are also a number of corrections to the Insolvency Act consisting primarily of rectifying cross-  
referencing errors and a number of typographical errors which we noted. There are, as I have said, also  
a number of changes to the Insolvency Act which are being made, and these have followed consultation. I  
645 will go through the various changes. There are essentially four changes.

The first, Mr Speaker, is to provide for the licensing of insolvency practitioners by the Financial  
Services Commission. The Insolvency Act 2011 provides for this function to be exercised by the Minister  
with responsibility for Financial Services. The Act in fact distinguishes in relation to insolvency  
practitioners, between the licensing of insolvency practitioners, which is a responsibility given to the  
650 Minister, and the supervision of insolvency practitioners, which is a responsibility given to the Financial  
Services Commission.

The Act in fact allows the Minister to designate another person or entity as essentially the licensing  
authority. The Government has decided that that function should not be exercised by the Minister, but by  
the Commission. The licensing function should be exercised by the Commission. Although it is true that  
655 this could have been done by designation under the existing provisions, we were in any event, as a result of  
the Companies Act, bringing an amendment to the Insolvency Act and the Government's decision is not  
that the primary power under statute should be held by the Minister, subject to a designation, but that the  
statutory power should be held by the Commission itself; therefore, we felt that it was best to do this by  
bringing this amendment to the Act.

660 Secondly, Mr Speaker, we have widened the scope of what is currently contained in section 136(3) of  
the Insolvency Act. This provides that where there is any inconsistency between the Act and legislation  
transposing EU Directives on collateral arrangements and securities, the EU provisions naturally prevail.  
However, section 136(3), which is the current provision which reflects this, is limited to set-offs. The  
amendment makes it clear that this applies to all arrangements and transactions caught by the relevant  
665 collateral and securities laws.

Thirdly, we have placed the responsibility for distributing the report on the outcome of a creditors  
meeting on the interim supervisor. We have done this because it is the interim supervisor and not the  
Chairman. At the moment under the Act it is the responsibility of the Chairman, but it is the interim  
supervisor who prepares the report on the creditors meeting and we felt that the interim supervisor would be  
670 better placed to have the obligation to distribute that report.

Fourthly, we have provided when considering the appointment of a liquidator on a public interest  
ground, the Court must include the interests of the public outside Gibraltar. We have done this because we  
have been advised that it has previously been argued in proceedings that 'public' may only mean or should  
only mean the public in Gibraltar, and if that were to be the case, it could possibly undermine the  
675 confidence of overseas' investors in Gibraltar companies if we do not take their interests into account or the  
Court was not to take their interests into account.

Mr Speaker, the existing Companies Act provides for certain offences for both solvent and insolvent  
liquidations. We consider that offences in the new Companies Act should apply only to solvent liquidations

680 and the equivalent offences for insolvent liquidations should be placed in the Insolvency Act. The Bill before this House gives effect to this.

685 Finally, Mr Speaker, we have given notice by letter to Mr Speaker of a further amendment which we will be proposing at Committee Stage. I understand hon. Members have a copy of the letter with the proposed amendment. The purpose of the amendment is to introduce a new provision in the Insolvency Act which reflects the current section 42A of the Bankruptcy Act and as Members know, the Bankruptcy Act will be repealed when the Insolvency Act is commenced.

690 Section 42A of the Bankruptcy Act contains provisions relating to Asset Protection Trusts. These are not used to any particularly great extent, as I understand it; however, there have been regulations made under section 42A, and that is the Bankruptcy (Register of Dispositions) Regulations, and a number of dispositions are in fact registered under the existing regulations. We have received representations from the industry that it would be desirable to keep the equivalent of section 42A in the new Insolvency Act. The Government has agreed and we will therefore be proposing at Committee a new clause to the Bill which will give effect to that.

695 Mr Speaker, as with the Companies Act, as I have already indicated, it is the Government's intention to commence all the legislation on 1st September 2014. At the same time a number of Rules and Regulations will be commenced, having previously been published and these are the Insolvency Rules, the Insolvency (Transitional Provisions) Regulations, the Insolvency Partnership Regulations, the Insolvency (Administration of Insolvent Estates) Regulations, the Insolvency Practitioner Regulations and the Cross-Border Insolvency Regulations.

700 Once again, Mr Speaker, I wish to thank all those who have been involved and assisted and advised the Government in putting together the various strands of this undoubtedly complex process. In particular, I would thank members of what we call the Insolvency Group, who are a group of practitioners in insolvency work who have for the last two years been involved with myself and the Minister for Financial Services in consultation, advice and have reviewed various drafts, in particular the drafts of the Rules and Regulations which are necessary to give effect to the provisions of the Insolvency Act.

705 I would also extend the Government's appreciation for their input to the Financial Services Commission, in particular, the Commission's Chief Executive Samantha Barrass.

Mr Speaker, I commend the Bill to the House. *(Banging on Desks)*

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

The Hon. the Leader of the Opposition.

715 **Hon. D A Feetham:** Mr Speaker, just to say that the Opposition will be supporting this Bill. This Bill is introduced in order to allow four amendments of the Insolvency Act, which the Hon. the Minister for Justice has acknowledged was introduced into this Parliament by us when we were in Government, not only to enable it to be commenced, but also they made a number of amendments.

720 Whilst perhaps we would have dealt with certain issues differently and indeed, in terms of the amendments to the licensing regime, we took a conscious decision to deal with it in a different way, the reality is that there is more than one way to skin a cat and simply because we decided to deal with it differently does not mean that there is anything wrong with the way that the hon. Gentleman has sought to deal with this particular issue through these amendments.

So the Opposition will be supporting the Bill for those reasons.

725 **Mr Speaker:** Does the hon. mover wish to...?

730 **Hon. Sir P R Caruana:** Yes, Mr Speaker, there is just one minor point on which... I am grateful to the Hon. Minister for handing me the Act as it stands. I was a little bit concerned when he said that the effect of the amendment to section 229 was to define the public interest, including the public interest of a place *outside* of Gibraltar. I think that might be a happy misspeaking on his part because I think in fact it does something slightly different in that it defines 'public' as being the public both within and without Gibraltar, which is slightly different to defining the public interest. I think it would be dangerous, as a matter of generality, to define the public interest in the laws of Gibraltar as the public interest of every country in the world. The public interest of some countries is that Gibraltar should not have a finance centre, should not have laws to encourage people and therefore I think as a matter of general statutory provision, it would need very careful thought before the definition of 'public interest' were broadened in that way. I do not think that that is the effect, even though that is how he has described it. I do not think on a very quick reading that is the effect of this amendment, which is simply to do probably what is already the position and that is simply where it says 'public', as in members of the public. It means members of the public who are both in and out

740 of Gibraltar and that must be true, that a creditor of the Gibraltar company is a member of the public in Gibraltar for that purpose already.

745 On that basis there is a provision in clause 229 that refers to the public interest, the Court is of the opinion that it is in the public interest for a liquidator to be appointed. The amendment is, public, includes public within and outside of Gibraltar. Whether that would influence the interpretation of the word 'public', whether the reference to the 'public' in that sense would influence the interpretation of the phrase 'public interest', which includes the word 'public', I do not know. But I do not think it is hugely important in the context. In any event, I do not think it would be hugely important in the context of this legislation, but I think it is worth just bearing in mind perhaps in other legislation where it might be more sensitive, to perhaps focus on this point.

750 **Hon. G H Licudi:** Mr Speaker, I agree entirely with the clarification and the interpretation given by the hon. Member Sir Peter Caruana. Certainly it is not our intention to signal that the Government considers that any reference to public interest is anything other than the public interest in Gibraltar. There is a particular provision here in relation to the public and what that means and public must necessarily for  
755 insolvency purposes. We are only dealing with this and therefore we are making no wider statement than what is contained in this particular Bill. We are simply clarifying that 'public' for these purposes, means the public in Gibraltar and outside because of the interests of people outside Gibraltar in Gibraltar companies who may be affected by this. Therefore, I am happy to agree with the clarification which has been put forward and I am in fact very grateful for it.

760 **Mr Speaker:** I now put the question, which is that a Bill for an Act to provide for the repeal and amendment of certain enactments consequent on the enactment of the Insolvency Act 2011 be read a second time. Those in favour? (**Members:** Aye.) Those against? Carried.

**Substitute Clerk:** The Insolvency (Amendment) Act 2014.

**Insolvency (Amendment) Bill 2014 –  
Committee Stage and Third Reading to be taken at this sitting**

765 **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.

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

**Insolvency (Consequential Provisions) Bill 2014 –  
First Reading approved**

**Substitute Clerk:** A Bill for an Act to provide for the repeal and amendment of certain enactments consequent on the enactment of the Insolvency Act 2011.

The Hon. the Minister for Education, Telecommunications and Justice.

775 **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 provide for the repeal and amendment of certain enactments consequent on the enactment of the Insolvency Act 2011 be read a first time.

780 **Mr Speaker:** I now put the question which is that a Bill for an Act to provide for the repeal and amendment of certain enactments consequent on the enactment of the Insolvency Act 2011 be read a first time. Those in favour? (**Members:** Aye.) Those against? Carried.

**Substitute Clerk:** The Insolvency (Consequential Provisions) Act 2014.

**Insolvency (Consequential Provisions) Bill 2014 –  
Second Reading approved**

785 **Minister for Education, Telecommunications and Justice (Hon. G H Licudi):** Mr Speaker, I beg to move that the Insolvency (Consequential Provisions) Bill 2014 be read a second time.

This Bill makes amendments to various Acts, Regulations and Rules arising from the enactment of the Insolvency Act 2011, as amended by the Bill which we have just considered.

790 As the name of the Bill implies, the intention is to give effect through this Bill to changes which are necessary or desirable simply as a consequence of the enactment of the Insolvency Act. As hon. Members are well aware, the Insolvency Act 2011 introduces the concept of administration of companies. This makes it necessary for various statutory provisions to be amended to reflect the fact that companies, apart from being placed into liquidation, may also now be placed into administration. As an example, Mr Speaker, the application of the Crime (Money Laundering and Proceeds) Act 2007 and the Drug Trafficking Offences Act 1995 is extended to assets held by companies which are subject to administration under the new procedure.

795 A number of amendments are also being made to the Protected Cell Companies Act. Although special provisions apply in relation to the liquidation of a protected cell company, there is no reason to exclude the Insolvency Act completely. However, in relation to individual cells, the Protected Cell Companies Act provides for the appointment of an administrator and this is a self-contained procedure within that Act and the proposed new section 2A of that Act therefore excludes the administration provisions in the Insolvency Act because the Act already has its own procedure. Other amendments are also made to this Act to reflect the change in terminology in the Insolvency Act.

800 Mr Speaker, the other pieces of legislation which are amended by this Bill are the Deposit Guarantee Scheme Act 1997, Financial Markets and Insolvency (Settlement Finality) Regulations 2011, Financial Services Commission Act 2007, Financial Services (Temporary Administration of Companies) Act 2010 and a Supreme Court Rules 2000.

805 Mr Speaker, I commend this Bill to the House.

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

I will now put the question which is that a Bill for an Act to provide for the repeal and amendment of certain enactments consequent on the enactment of the Insolvency Act 2011 be read a second time. Those in favour? (**Members:** Aye.) Those against? Carried.

815 **Substitute Clerk:** The Insolvency (Consequential Provisions) Act 2014.

**Insolvency (Consequential Provisions) Bill 2014 –  
Committee Stage and Third Reading to be taken at this sitting**

**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.

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

**COMMITTEE STAGE**

**The Companies Bill 2014;  
The Insolvency (Amendment) Bill 2014;  
The Insolvency (Consequential Provisions) Bill 2014.**

**Substitute Clerk:** Committee Stage.  
The Hon. the Chief Minister.

825

**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 Companies Bill 2014; the Insolvency (Amendment) Bill 2014; and the Insolvency (Consequential Provisions) Bill 2014.

*In Committee of the whole Parliament*

830

**Companies Bill 2014 –  
Clauses considered and approved**

**Substitute Clerk:** A Bill for an Act to re-enact, with amendments, the provisions of the Companies Act (1930-07) as amended; to incorporate the Companies (Accounts) Act 1999 and the Companies (Consolidated Accounts) Act 1999; to take account of the effect of the Insolvency Act; to incorporate amendments proposed by a Law Reform Committee of the Gibraltar Finance Centre Council; and for connected purposes.

840

Clauses 1 to 17.

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

**Substitute Clerk:** Clause 18.

845

**Minister for Education, Telecommunications and Justice (Hon. G H Licudi):** Mr Chairman, I have given notice in a letter, which I understand hon. Members have, of various amendments to this Bill, including an amendment to clause 18. I am happy to go through the various amendments or for the record to show that these amendments are formally put before the Committee.

850

**Mr Chairman:** Do all hon. Members agree that having regard to the fact that it has been circulated in detail, we dispense with the need to actually read them out? Agreed.

Clause 18, as amended, stands part of the Bill.

855

**Substitute Clerk:** Clauses 19 to 85.

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

**Substitute Clerk:** Clause 86.

860

**Mr Chairman:** The Hon. Mr Licudi. No?

**Substitute Clerk:** There are amendments, but they are covered by the general amendment. If you could say that it is covered by the general memorandum. *(Interjection)*

865

**Hon. G H Licudi:** Mr Chairman, I understand that all the amendments have been accepted and therefore it is clause 86, as amended, should stand part of the Bill.

**Mr Chairman:** Clause 86, as amended, stands part of the Bill.

870

**Substitute Clerk:** Clauses 87 to 113.

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

875

**Substitute Clerk:** Clause 114.

**Mr Chairman:** Again, there is an amendment which has been circulated. Clause 114, as amended, stands part of the Bill.

880

**Substitute Clerk:** Clauses 115 to 130.

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

**Substitute Clerk:** Clause 131.

885 **Mr Chairman:** Clause 131, as amended, stands part of the Bill.

**Substitute Clerk:** Clauses 132 to 187.

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

890 **Substitute Clerk:** Clause 188.

**Mr Chairman:** Clause 188, as amended, stands part of the Bill.

895 **Substitute Clerk:** Clause 189.

**Mr Chairman:** Clause 189, as amended, stands part of the Bill.

**Substitute Clerk:** Clauses 190 and 191.

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

**Substitute Clerk:** Clause 192.

905 **Mr Chairman:** Clause 192, as amended, stands part of the Bill.

**Substitute Clerk:** Clauses 193 to 490.

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

910 **Substitute Clerk:** Schedules 1 to Schedule 29.

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

915 **Substitute Clerk:** The long title.

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

**Insolvency (Amendment) Bill 2014 –  
Clauses considered and approved**

**Substitute Clerk:** A Bill for an Act to amend the Insolvency Act 2011.  
Clause 1.

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

**Substitute Clerk:** Clause 2.

925 **Minister for Education, Telecommunications and Justice (Hon. G H Licudi):** Mr Chairman, I have given notice by letter of a proposed amendment to clause 2 to introduce a new 35A and the details are set out in the letter which I understand has been circulated to the hon. Members opposite. As I explained during the Second Reading, this is to re-introduce the provisions relating to asset protection trusts.

930 **Mr Chairman:** Is it agreed that clause 2, as amended in the terms the hon. Member has given notice, stands part of the Bill?

Clause 2, as amended, stands part of the Bill.

**Substitute Clerk:** The long title.

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

**Insolvency (Consequential Provisions) Bill 2014 –  
Clauses considered and approved**

**Substitute Clerk:** A Bill for an Act to provide for the repeal and amendment of certain enactments consequent on the enactment of the Insolvency Act 2011.

Clauses 1 to 3 and the long title.

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

**FIRST AND SECOND READING**

**Criminal Procedure and Evidence (Amendment) Bill 2014 –  
First Reading approved**

**Substitute Clerk:** A Bill for an Act to amend the Criminal Procedure and Evidence Act 2011.

**Mr Speaker:** The report...?

945 **Substitute Clerk:** We report at the end. (*Interjection*) Yes.  
A Bill for an Act to amend the Criminal Procedure and Evidence Act 2011.  
The Hon. the Minister of Education, Telecommunications and Justice.

950 **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 Criminal Procedure and Evidence Act 2011 be read a first time.

955 **Mr Speaker:** I now put the question that a Bill for an Act to amend the Criminal Procedure and Evidence Act 2011 be read a first time.  
Those in favour? (**Members:** Aye.) Those against? Carried.

**Substitute Clerk:** The Criminal Procedure and Evidence Act 2011.

**Criminal Procedure and Evidence (Amendment) Bill 2014 –  
Second Reading approved**

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

Mr Speaker, this Bill introduces a number of amendments to the Act so as to increase the range of sentences to which rehabilitation attaches and to decrease the rehabilitation period in respect of certain sentences.

965 The provisions regarding the rehabilitation of offenders introduced in the Criminal Procedure and Evidence Act 2011 aim to give those with convictions or cautions the chance, in certain circumstances, to have their convictions or cautions regarded as spent after a specified period of time, known as the rehabilitation period. The length of that specified period depends on how the individual concerned was dealt with, including the length of prison sentence where such a sentence has been imposed.

970 Prison sentences of over 30 months are excluded from the scope of the Act and can therefore never become spent, subject of course to the possibility of a review, which is an amendment we have previously introduced. The rehabilitation periods for other types of sentence vary according to the person's age and whether the person was cautioned or convicted, and if the latter, the type of sentence imposed. Once the conviction or caution becomes spent, the offender is regarded as rehabilitated and for most purposes is treated as if he had never committed the offence.

975 The amendments included in this Bill are based on recent changes in the United Kingdom made to the Rehabilitation of Offenders Act and these amendments came into force on 10th March 2014. As a result of the amendment in the UK, there is now a very wide gap between rehabilitation periods in the UK and those in Gibraltar. As an example, someone sentenced to six months imprisonment in the UK has a rehabilitation

980 period of four years; whereas someone sentenced to the same period of imprisonment in Gibraltar, has a rehabilitation period of 10 years – in other words more than double.

The UK regime was amended following criticism as to it being inconsistent with contemporary sentencing practice, with the result that it failed in its aim to help reformed offenders resettle into society. It was suggested that the rehabilitation periods were too long and did not reflect the point at which re-offending tails off following a conviction. When these changes were introduced in the UK in March of this year, a number of reports also suggested that studies have shown that shorter rehabilitation periods made a critical difference on whether or not an offender was able to find employment and turn his or her life around. That in turn also reflected on re-offending rates. Shorter periods of rehabilitation resulted therefore in offenders being more likely to find employment and in turn less likely to re-offend.

985  
990 That does not of course mean or lead to the conclusion that rehabilitation periods should be eliminated altogether. It is necessary to have rehabilitation periods. The question is simply what those periods should be. The UK has now pitched those periods at a level considerably shorter than those which currently apply in Gibraltar. There appears to the Government to be sound public policy, criminal justice policy and social policy reasons for these shorter periods. We have therefore decided to follow the periods recently set in the UK.

995  
1000 The changes in the Bill involve two key matters. The first change is to extend the scope of the Act to cover custodial sentences of up to 48 months and the second is to change the length of some of the rehabilitation periods and the manner in which they are calculated. These changes will result in a simpler system which will no doubt help in a more realistic opportunity being given to offenders to get on the right path and contribute to society. That is in line with Government policy as reflected in our manifesto where we set out the importance of rehabilitation of offenders provisions. Other changes are simply to simplify the system in line with current UK practice.

Mr Speaker, I commend the Bill to the House. (*Banging on Desks*)

1005 **Mr Speaker:** Before I put the question, does any hon. Member wish to speak on the general principles and merits of this Bill?

The Hon. the Leader of the Opposition.

1010 **Hon. D A Feetham:** Mr Speaker, this Bill seeks to amend legislation that we introduced into this House... I think it was in 2011, in the Criminal Procedure and Evidence Bill, which introduced for the very first time into Gibraltar the concept of rehabilitation of offenders.

1015 Mr Speaker, I recall from the debate in relation to that Bill that in fact the hon. Gentleman, when he was shadowing me, he raised a number of concerns about the shortness of the rehabilitation periods. He also raised some concerns as well as to the schedule annexed to the Bill, which listed all those professions. He may recall all those professions that had actually been excluded. I told him then that really the question of rehabilitation of offenders was very much work in progress and that it may well have been that at some point in the future a future Gibraltar Government would have to review the rehabilitation periods, and indeed also the exclusions, the list of professions that were excluded from being... or people working in those professions were excluded from being rehabilitated at some point in the future.

1020 The hon. Gentleman has decided to do this at this point in time because what he is doing is, he is following UK amendments to the legislation in the UK. I think that it is something that actually ought to be kept under constant review and it is something that may well in the future lend itself to Gibraltar going down a different path to the United Kingdom, particularly too in relation to re-examination of all those professions that are excluded from being rehabilitated.

1025 I will just explain, for the benefit of viewers, that there is a list of professions annexed to the Criminal Evidence and Procedures Act, as it now is, and anybody wanting to work in those professions will never be rehabilitated. In other words, a conviction will always – no matter how spent the conviction would have become – would always weigh effectively against that person when that person wanted to work in those professions, and of course that makes sense in relation to, for example, professions such as people working with children or with vulnerable people; but indeed, the list is a very wide list indeed. We chose to follow the UK because at the time we thought that that was appropriate, but I think that is something that also ought to be re-examined by the Government and I urge him as part of this continuing process, of course, of keeping our laws updated that he should look at that, but other than that Mr Speaker, the Opposition will certainly be supporting this Bill.

1035 **Mr Speaker:** Does the hon. mover wish to reply?

**Hon. G H Licudi:** Yes Mr Speaker.

The hon. Member mentions certain issues which are raised at the Second Reading of the Bill in 2011. I have no independent recollection of that, but be that as it may, I do agree that this legislation, as many other



1040 pieces of legislation, needs to be kept under constant review. The review that we have done now in relation  
to the periods do arise because of changes in the UK. The hon. Member has mentioned – and again he is  
correct, as I acknowledged earlier in the context of a separate Bill – that we should not and we do not need  
to follow slavishly in Gibraltar whatever happens in the UK. So it is not that it is a reaction to a change in  
1045 the UK, but a consequence of consideration of the reasons why those changes have been made, the studies  
that have led and the criticisms of the longer periods that have led to those changes. And after some  
consideration of those reasons – and those changes were only made in March of this year – we have felt that  
it made sense to move in that particular direction, but I do acknowledge that there may well be local  
circumstances which may make us in the future go down a different direction to the UK.

1050 I also agree that the list of professions, which is quite extensive needs to be kept under review. We have  
not decided at this stage that we should make any particular changes, but it is something that certainly needs  
to be kept under review as we see how the effect of the changes of the introduction in the first place, and let  
us recall that although this was introduced in Parliament in 2011, it did not actually come into effect until  
November, as I recall, of 2000... sorry, the whole Act came into effect in November 2012, but very early  
1055 on in 2012, we introduced the Rehabilitation of Offenders Provisions as a commencement of a part on its  
own.

So this is not something that has been around for years and years and we have learnt from the practice as  
to what it actually means to people who have come out of jail and end their rehabilitation periods. In the  
main part, people who have been subject to rehabilitation periods since the commencement have not had the  
opportunity of having that period end and then be rehabilitated. This will certainly help because it will  
1060 automatically mean that somebody who is currently subject to a longer rehabilitation period, who is caught  
by the new provisions, will have that period automatically shortened and therefore that person may well  
now find, as a result of this commencement, that that conviction becomes spent and has those extra  
opportunities which is what we all want to achieve.

1065 Certainly this is a matter that needs to be kept under review and I am certainly grateful on this occasion  
that the Opposition is supporting the changes we are making.

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

1070 **Substitute Clerk:** The Criminal Procedure and Evidence (Amendment) Act 2011.

**Criminal Procedure and Evidence (Amendment) Bill 2014 –  
Committee Stage and Third Reading to be taken at this sitting**

**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.

1075 **Mr Speaker:** Do all hon. Members agree that the Committee Stage and Third Reading of the Bill be  
taken today. (**Members:** Aye.)

**Prison (Amendment) Bill 2014 –  
First Reading approved**

**Substitute Speaker:** A Bill for an Act to amend the Prison Act 2011.  
The Hon. the Minister for Education, Telecommunications and Justice.

1080 **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 Prison Act 2011 be read a first time.

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

1085 **Substitute Clerk:** The Prison (Amendment) Act 2014.

**Prison (Amendment) Bill 2014 –  
Second Reading approved**

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

1090 Mr Speaker, we seem to be dealing with a number of amendments to Acts which were passed by this Parliament in 2011. For some reason –

**A Member:** Very welcome.

1095 **Hon. G H Licudi:** Yes, certainly very welcome Acts, but for some reason there seems to have been a flurry of activity in 2011 (*Laughter*) to get some legislation through Parliament. But this, of course, is certainly a welcome amendment... a welcome provision and updating of the Prison Act, which as I recall was welcomed by all.

1100 Mr Speaker, this Bill includes a number of amendments to the Prison Act 2011 which can be split into three groups. The first set of amendments is contained in clauses 2 and 3. These deal with the position of prisoners aged 17 and their classification under the Act. The changes ensure that persons aged 17 are treated as juveniles during the judicial process under the Criminal Procedure and Evidence Act and also under the Prison Act. At present, special treatment is required under the Prison Act for those aged *under 17* – this does not of course include 17-year-olds.

1105 Hon. Members will recall that I explained, in answer to a question from the Hon. Selwyn Figueras in March of this year, how juveniles who are detained at HM Prison are dealt with. It became apparent during the course of preparing the answer to that question that whereas in prison 17-year-olds are treated as adults – because it is only under-17's that are given that special treatment... so in prison 17-year-olds are treated as adults and under the Criminal Procedure and Evidence Act, 17-year-olds are treated as juveniles. This discrepancy exists as a result of the commencement of the Criminal Procedure and Evidence Act in 2012, which changed the age at which young persons become adults from 17 to 18. This discrepancy in fact, Mr Speaker, was also highlighted in a recent case before the Court, which was reported by the *Gibraltar Chronicle* on 5th April this year. As a result, Mr Speaker, the Government considers that it is right that 17-year-olds should be treated as juveniles for all purposes under the Criminal Justice System. It is therefore necessary to amend the Prison Act to bring the classification of 17-year-olds in line with the definition of 'juveniles' in the Criminal Procedure and Evidence Act.

1115 Mr Speaker, the second area being amended by this Bill is contained in clause 4. This amendment clarifies the way in which a sentence of imprisonment is defined for the purposes of release on licence. The amendment reflects the current practice, that terms in default for the non-payment of fines are for the purposes of releasing persons on licence treated as sentences of imprisonment and that consecutive terms of imprisonment are to be treated as one term. This arises where a prisoner is serving a sentence of imprisonment and separately has to serve a term, say, of 30 days in default for non-payment of fines. The question that arises is how the parole eligibility date is calculated? Is it only by reference to the first sentence with a term in default served separately or is there a requirement to put the two terms together as one term and calculate parole eligibility date by reference to that whole term? The legislation Mr Speaker, I was advised was not clear, although the practice was to treat the sentences as one term. The amendment we are making does not change the current practice; it simply clarifies the law.

1120 The final amendments made by this Bill are by clause 5, Mr Speaker. These are amendments to section 64 of the Prison Act 2011 to create a new offence of possession without authorisation of a device capable of transmitting or receiving images, sounds or information by electronic communications in a prison. This includes mobile telephones, as well as other devices which are capable of accessing the internet or are otherwise capable of sending or receiving data.

1135 There is already, under the Prison Act, the offence of introducing such a device into the prison. This requires evidence of who introduced the device to the prison, but does not assist where someone is in possession of the device, but it is not known how or by whom the device was introduced to the prison. It was felt that this creates a lacuna in our legislation which we are correcting with this new offence. The new offence will also extend to the possession of any component part or article designed or adapted for use with such a device, such as a SIM card or a charger for a mobile telephone.

Mr Speaker, I commend the Bill to the House.

1140 **Mr Speaker:** I put the question, does any hon. Member wish to speak on the general principles and merits of this Bill?

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

1145 **Mr Speaker:** The Hon. the Leader of the Opposition.

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

1150 Mr Speaker, in the mutual back-slapping that has characterised this particular session this morning, it was the first ungenerous comment by the hon. Gentleman to suggest that we had delayed all these Bills – the Insolvency Act, the Criminal Evidence and Procedure, the Crimes Act and the Prison Act – all seminal pieces of legislation until the very end. Of course the reality is, as he well knows because of the work that he has done in relation to the Companies Act, that dealing with legislations of this nature is not like, I suppose, frying an egg. Although, I have to say, I have very little experience of frying eggs or frying anybody else... sorry, *anything* else (*Laughter*) much to my wife's complaints.

1155 But, Mr Speaker, these are just simply amendments. One of the amendments deals with an anomaly that has arisen or that attention has been drawn to an anomaly as a consequence of a recent case in the Supreme Court. I happen to read the case. It is logical that the Government comes to Parliament in order to introduce an amendment that will effectively make the provisions in the Prison Act compatible with the provisions in other pieces of legislation.

1160 For all those reasons, Mr Speaker, the Opposition will be supporting this Bill.

**Hon. G H Licudi:** Mr Speaker, just to say that I was not trying to be ungenerous. I was simply remarking on a fact. In fact I was implicitly trying to commend the Member for bringing all those, as he has often described them, as seminal pieces of legislation, before he was, unfortunately for him, ousted out of office.

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

1170 **Substitute Clerk:** The Prison (Amendment) Act 2014.

**Chief Minister (Hon. F R Picardo):** Mr Speaker, may I now, bang on one o'clock, invite the House to recess until 2.30 p.m. this afternoon?

1175 **Mr Speaker:** The House will now recess until 2.30 p.m. this afternoon.

*The House recessed at 1.02 p.m. and resumed its sitting at 2.35 p.m.*



# PROCEEDINGS OF THE GIBRALTAR PARLIAMENT

AFTERNOON SESSION: 2.35 p.m. – 6.25 p.m.

Gibraltar, Friday, 30th May 2014

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# The Gibraltar Parliament

*The Parliament met at 2.35 p.m.*

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

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

## Order of the Day

### BILLS

#### COMMITTEE STAGE AND THIRD READING

##### **Prison (Amendment) Bill 2014 – Committee Stage and Third Reading to be taken at this sitting**

**Substitute Clerk:** The Hon. Mr Licudi.

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

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

#### FIRST AND SECOND READING

##### **Public Health (Amendment) Bill 2014 – First Reading approved**

**Substitute Clerk:** A Bill for an Act to amend the Public Health Act.  
10 The Hon. the Minister for Health and the Environment.

**Minister for Health and the Environment (Hon. Dr J E Cortes):** Mr Speaker, before I move I would  
15 like to call attention of the House to the fact that I wrote to Mr Speaker to advise him that there had been an  
error and the Bill had been published in two successive weeks in the *Gazette*. Therefore the Bill that  
appears as Item V on the list in the Order Paper should be withdrawn because it is an identical Bill that was  
published in error on a second occasion.

Then, Mr Speaker, having said that I have the honour to move that a Bill for an Act to amend the Public  
Health Act be read a first time.

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

**Substitute Clerk:** The Public Health Amendment Act 2014.

**Public Health (Amendment) Bill 2014 –  
Second Reading approved**

25

**Minister for Health and the Environment (Hon. Dr J E Cortes):** Mr Speaker, I have the honour to move that the Bill be now read a second time.

Mr Speaker, as a child, like so many Gibraltarian children at so many times through its history when travel was more difficult and other pastimes scarce, I would spend many hours with my parents and grandparents playing in the Alameda Gardens. I remember the plants and the care that they were given. I would look over the bridge into a magical glade and sit on the old guns dreaming of adventure.

As a youth, already with a keen interest in nature, I would walk through the Alameda on my way to my bird watching outings on the Upper Rock and then I would go into the Garrison Library and research into the rich history of the gardens, relishing the accounts of the travellers of yesteryear.

In the early 1980s I saw the gardens gradually decline; but as the years went by and I became more aware of the silence that backdrops nature, I recognised their potential more and more. When in the late 1980s, through a chance conversation with a friend, the opportunity arose to become more closely involved, I prepared a proposal for their conversion into a botanic garden. This was accepted by the Government of the time, that of the first GSLP Administration.

Since then, through hard work and persistence and with the support of successive Governments and six successive Ministers, the gardens developed from a derelict public park into a real botanic garden, renowned not just in Gibraltar, but around the world too for its beauty, its special plant collections, its educational value, its work in conservation as well as its wildlife park and of course its stunning open air theatre. It is, among other things, recognised as a member of international organisations, such as the International Association of Botanic Gardens and Botanic Gardens Conservation International.

Significantly, Mr Speaker, the gardens have been responsible for the discovery of new species of plants and invertebrates and for the saving of species from global extinction: the Gibraltar Campion, a flower unique to the Rock of Gibraltar.

Mr Speaker, I dedicated two decades of my life to this place and I believe was able to steer it through successive Administrations, keeping it away from political controversy by concentrating on the tasks and challenges I faced. I pay tribute here now to the successive members of staff of the gardens through the years for their vital contribution to this work.

Mr Speaker, the Alameda Gardens are defined in statute, but its role as a botanic garden is not. A botanic garden is as important in defining a country's identity through natural heritage, as a museum is in defining its character through its history. No-one, for example, will question the role of the Royal Botanic Gardens at Kew, nor the fact that its status is equivalent to that of the British Natural History Museum and the British Museum itself as an institution of scientific, educational and recreational excellence.

Mr Speaker, in the same way then that the Gibraltar Museum is defined in Gibraltar law, the Government feels that the Gibraltar Botanic Gardens should be likewise defined and recognised.

Mr Speaker, this Bill seeks to amend the Public Health Act to define the Alameda Gardens as Botanic Gardens, with the roles and functions of any such institution worldwide. It is a particularly fitting time to do this, Mr Speaker, as the gardens were officially opened in April 1816 and so are approaching their 200th anniversary.

With a slight amendment notified by letter, Mr Speaker, which aims not to restrict the enjoyment of the gardens to residents of Gibraltar – important given the increasing number of tourists including those visiting on cruise ships – and in the knowledge that the work of the gardens and its progress have been supported and made possible by both GSLP and GSD Administrations, I call on the support of all Members and commend this Bill to the House.

**Several Members:** Hear, hear. (*Banging on desks*)

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

The Hon. the Leader of the Opposition.

75

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

Mr Speaker, I am tempted by starting my comments in relation to the Bill by saying to the hon. Gentleman, it does not appear *que tiene abuela*. This morning, I complimented the Minister for Justice quite extensively and he has now complimented him himself quite extensively. (*Laughter*) But look, in the spirit of the way that we have been conducting proceedings so far today, I will not hold it against the hon. Gentleman.

80

Mr Speaker, we cannot vote in favour of this Bill. We cannot vote in favour of this Bill on a point of principle, and the principle is this, and it is going to be... foreshadow, our attitude also in relation to the Commonwealth Park.

85 The point is this, that constitutionally no Parliament can bind a future Parliament. So any legislation that we introduce now about perpetually setting aside Alameda Gardens, could not perpetually set aside Alameda Gardens for any purpose if a future Parliament decided to effectively change the law.

I do not see why we ought to be introducing legislation of this nature. I want to make absolutely clear that neither the GSD, nor indeed the GSD whilst I lead it or whilst any of the people present today ever lead the GSD would intend to change the use of Alameda Gardens to anything other than what it is today, but I do not think that it is right to introduce legislation that perpetually seeks to effectively bind future Governments when the reality is that is not possible. So all you would be doing really is ensuring that if any future Government wanted to change the law, it would have to come to this House in order to debate the issue. But, quite frankly, there would be such a public outcry if anybody were to try and change the use of Alameda Gardens that it would be absolute political suicide and turkeys voting for Christmas if any future Government decided to do that. So we are not going to be voting against it, Mr Speaker, but we will certainly abstain. We are not voting in favour.

100 Mr Speaker, I would also ask the hon. Gentleman just to explain and to provide some clarity in relation to Section 269(2)(d) which says, 'may allow the public to be excluded from the Alameda Gardens or parts thereof and for a reasonable fee for admission to be charged'.

Can he explain what the intention is in relation to this particular clause that obviously is a different point to the point that I have made.

105 **Mr Speaker:** The Hon. the Chief Minister.

**Chief Minister (Hon. F R Picardo):** Mr Speaker, I was in the Ante Chamber, but I heard all of what the Hon. the Leader of the Opposition has said in relation to what he said was the point of principle that led them to indicate that they would not be able to support this Bill, and already to indicate that a Bill that is on the Order Paper is not one that can be proceeded with until after 25th June, almost a month from now, is also not likely to enjoy their support.

110 Can I just ask him to reflect a little bit on the principle that he has enunciated and consider whether in fact there is not actually room for them to come on side with the Government and understand why it is that we are doing this, especially given the fact that he has told the House this afternoon that certainly a GSD under him or under any other person on the Opposition benches at the moment would not, if they were ever to be in a position to do so from Government, be seeking to change the use to which the Alameda Botanic Garden is being put?

115 So in those circumstances, given that we are dealing with a putative third Government – in other words, one not led by anybody in this room today that evinces the intention of not in any way effecting the Botanic Gardens and their use – why would we not want to...let me use this word 'entrench' in legislation the principle that these gardens are going to be used simply as gardens?

120 Well, the hon. Gentleman says that Parliaments cannot bind their successors. Governments cannot bind their successors. Of course, Mr Speaker, that is not true. Governments do bind their successors and he will know, and if the hon. the backbencher were here, he would be able to bear out that in the same way as they in Government were bound by contracts entered into by the GSLP Administration before 1996, the GSLP Liberal Administration of 2011 is bound by contracts entered into by them, some of them on the eve of the Election. So Governments do bind their successors contractually and Governments also bind their successors through legislation – for example, we have passed swathes of legislation this morning which binds the next Parliament and the next Government, unless and until another Government comes to this House or an individual can come to this House on a Private Member's Bill and garners a majority of it and then a Rule can change.

130 The hon. Member's reason for not supporting this Bill is a good reason for not supporting any Bill and of course belies the principle of legal certainty. The principle of legal certainty is that the Rule is on the statute book and must be observed whilst it is on the statute book – of course, an issue that we shall come to perhaps later on when we deal with the motion. But until such time as a Government or individual, a majority of this House however garnered, makes a decision to pass a statute that contradicts or supersedes or in some way overturns an earlier statutory provision, it is on the statute book and must be observed. Therefore, given that we protect the rights of individuals and the rights of corporations and we protect society in so many ways against so many evils, in so many statutes and so many sections, why not extend that protection to the use to which a particular area of Gibraltar is being put.

140 Let me give him another example. We do it today here by statute. In part it is done through the Gibraltar Development Plan. You may have seen in recent weeks, Mr Speaker, reference in correspondence in local newspapers where people have spoken about the relevance and the enforceability of the Plan in relation to



145 the area of Europa Point, for example, and of course Alameda Gardens is an area which in the Development  
Plan is a garden. The Development Plan as it stands does not cover, for example, Commonwealth Park as a  
garden, where it appears as an area of car parking, an open space available for development. We are going,  
Mr Speaker, therefore an extra mile. We are adding a layer of protection and of course it is right. Perhaps  
even for very good reason in future a Government might need to come and say, ‘We need to get rid of the  
gardens’. I doubt there will ever be a reason good enough for John Cortes and perhaps never a reason good  
150 enough for any of us, but who can tell where Gibraltar will be in the 22nd century BC... AD, sorry. Who  
could tell what the needs of Gibraltar then might be?

We think it is right that if there comes a need in order to redevelop that area, that the Government that is  
going to seek such redevelopment comes here and seeks the approval of the Parliament, and in that way the  
approval of the people for that redevelopment. It is simply an extra layer of protection, but I cannot see why  
in principle they would not accept my invitation to *add* that layer of protection to these non-urban areas.

155 I know that the Commonwealth Park is new. That it is our manifesto commitment and not theirs, and I  
know that there has been an element of controversy about that and I can understand why the area of the  
Commonwealth Park might be an area that we might not enjoy their support on, unless they are prepared to  
say, ‘Well, look, it was not our idea, but we think it works and we want it protected’. But the Alameda  
Gardens go back centuries already. They are an area that I think are close not just to botanists’ hearts. I  
160 think they are close to the hearts of all of us in different ways and I cannot see a reason why not to require a  
future Chief Minister to come here and explain to him, or explain to me if I am on that side, or explain to  
any of us, or explain to any generation of Gibraltarian, why it is that this is necessary and perhaps even  
carry the full support of the Parliament because *in extremis* – and we cannot see the future – it may one day  
become necessary. Let us... please, God, that it does not happen.

165 So given the intentions that they have evinced not to touch Alameda Gardens, I think that is genuine and  
I accept that as genuine and I park the Commonwealth Park point, but as a matter of principle, accepting  
that at least until they move the Bill and come to this House and make the explanation, they would find it  
impossible to tamper with the gardens – it is not something that could be done by a DPC or by a change in  
the Development Plan... consider adding that layer of protection in the hands of the elected representatives  
170 of the people, such as they may be at such time were the Bill ever to come in this Parliament.

**Mr Speaker:** Does the mover wish to reply?

175 **Minister for Education, Telecommunications and Justice (Hon. G H Licudi):** Mr Speaker, I am not  
the mover. The mover is Mr Cortes, but I do want to make a short – (*Interjection*) If he asks – (*Laughter*  
*and interjections*)

Mr Speaker, the Chief Minister said just about everything that needs to be said in relation to the point  
that the hon. Member has said, but I rise only because what has been raised is a matter of legislative  
principle, and I rise as Minister for Justice, responsible generally for legislation.

180 Again, asking the hon. Member to consider the point that he has made, because I genuinely believe it is  
incorrect. It is an incorrect position of principle to take. If it is simply, as he has explained, a point of  
principle, rather than a disagreement with the substance of what this Bill is supposed to do, then it is  
important to reflect as to whether the principle is correct.

185 **Hon. D A Feetham:** Will he give way?

**Hon. G H Licudi:** Yes, Mr Speaker, I will be happy to give way.

190 **Hon. D A Feetham:** Mr Speaker, thank you very much. I am very grateful to the Hon. the Minister for  
Justice for giving way.

Mr Speaker, may I just first of all before I deal with this also come back to some of the comments made  
by the Hon. the Chief Minister. There is of course a fundamental distinction between a situation that we  
have here today and a situation where one Government is bound by a contract entered into by a previous  
Administration. As a matter of simple contractual law, the Government of Gibraltar is one continuous  
195 constitutional entity and simply because there is a change of Government does not mean that what a  
previous Government does, does not bind a subsequent Government. I do not believe that the analogy in  
respect of contracts is an apposite analogy for the purposes of today’s debate.

The reality is – and this is the point that I am making – that nothing that this Parliament does today can  
possibly bind a Government in the future. The word that I find... the word that draws my attention – it is a  
200 word that I think is also in the other Bill – is the word ‘perpetually’. If the Government had come to this  
House and basically just simply had this Bill setting aside Alameda Gardens for the purposes of health,  
recreation, enjoyment of all persons resident in Gibraltar, I think we would probably have taken a different  
view. I do not know whether the Government wants to consider an amendment to just simply delete the

205 word ‘perpetually’ and then it would have the support, the cross-party support, because of course if you  
 remove the word ‘perpetually’, the reality is it sets aside Alameda Gardens in a way that, for example, a  
 previous Government...indeed it was the GSLP Government in 1991 and I will have something to say  
 about that when we come to the motion on fishing – that designated the Upper Rock as an area of special  
 importance. Of course a future Government can always de-designate that area and basically open it up to all  
 sorts of development – (*Interjection*) That is possible, provided of course that that Government comes to  
 210 Parliament and changes the law. It is the word ‘perpetually’ that I just find as a matter of principle, if I can  
 use the word, offensive for the present purposes. But, of course, if they are prepared to remove the word  
 ‘perpetually’, then this Bill would enjoy cross-party support. But it is the word ‘perpetually’ that we object  
 to.

215 **Hon. G H Licudi:** Mr Speaker, I will give way to the Chief Minister, who wants to make a particular  
 point.

**Mr Speaker:** I am going to allow this afternoon all this process of giving way, but I should remind hon.  
 Members that you give way for the purpose of clarification. It is not to make a debating point and to bring a  
 220 new debating point into the framework of the debate. It is to clarify something which one Member has said  
 in the debate. It has been picked up by another and replied to and the original Member wishes to clarify  
 something. It has got to be for that purpose and not to continue a debate. But anyhow, we are okay.  
 [*Laughter*]

225 **Hon. Chief Minister:** Mr Speaker, I do hope that this is simply going to serve to clarify the position for  
 the hon. Gentleman in a way that may actually enable us to proceed by way of agreement. He has made his  
 position now very clear. His objection is to that word. If I can simply satisfy him of something, he may find  
 that he wishes to reconsider his position, given that his stated view is that this is something that we can all  
 agree on in respect of the non-redevelopment of the area.

230 No, we cannot move on, Mr Speaker, because the issue is this. The word ‘perpetually’, Mr Speaker, is  
 already in the Act. It is not a word that we are inserting. The word ‘perpetually’ is already in the Public  
 Health Act and what we are doing is extending the protection already in the Public Health Act perpetually  
 to the Alameda Gardens. Therefore, Mr Speaker, I recognise what the hon. Gentleman says. This is a first  
 year law point. We cannot disagree on it. Somebody can come to Parliament in the future and that which  
 235 has previously in law been protected perpetually can disappear and the section can simply be taken away.  
 But when the Public Health Act was commenced – that was in 1950 by the old City Council, precursor of  
 the Legislative Assembly, the House of Assembly and now the Parliament – that language was already in  
 our legislation.

240 Everything that we do today, whether we say we are doing it perpetually or not, we do until such time as  
 Parliament decides again in the future. So in those circumstances, Mr Speaker – and I know that the mover  
 of the Bill has actually identified where in the Act the word ‘perpetually’ appears, but it appears already – I  
 think he may want to reconsider the view that he is taking and see that the word ‘perpetually’ is something  
 that is oft used in legislation, despite the supremacy of each Parliament to overtake and undo the Acts of an  
 earlier Parliament. May I simply remind him that our whole title to this place rests on an agreement said to  
 245 be done in perpetuity, which could be undone by another Parliament at any time of course, over our dead  
 bodies... all of us. But the word ‘perpetuity’ is a word of treaties and is a word of law, despite the  
 established principle of the supremacy of Parliament.

**Hon. G H Licudi:** Mr Speaker, I have given way.

250 The issue, as I mentioned, is this point of legislative principle, whether it is right to include in an Act of  
 Parliament something that goes beyond the life of a particular Parliamentary term. If there was an objection  
 to the word ‘perpetually’ and, as the Chief Minister has explained, this is not a new word, and there is  
 nothing intrinsically wrong in saying –

255 **Hon D A Feetham:** I have not seen the context.

**Hon. G H Licudi:** But that is what the Chief Minister has indicated and that is the position. I understand  
 the mover of the Bill will respond also on this.

260 But if there was anything wrong in saying that something is in a certain way perpetually, there would  
 also be something equally wrong in setting out any period in any legislation which goes beyond the term of  
 that Parliament, because if you have any period set out in any legislation, whether it is five years, 10 years,  
 20 years, you might say you cannot bind a future Parliament. If you set, for example, a perpetuity period of,  
 say, 100 years, what are you doing? Are you binding future Parliaments? No. You are stating that the  
*present* Parliament believes that that is a state of play that should continue for that period of time. In the

265 same way we are stating today that this Parliament believes that the Alameda Gardens should be  
*perpetually* set aside as a botanic garden. That is a statement of intent which we are making forcefully today  
with this legislation. (*Interjections*)

Mr Speaker, if I can refer to the existing provision, which is section 269 of the Public Health Act, which  
is the one that is actually being substituted by the present section, and that is, as we have heard, an Act  
270 which goes back to 1950 and nobody since 1950, as far as we are aware, has ever taken any objection, nor  
sought it fit to change it because in 1950 it bound future Parliaments.

This is what section 269 says:

‘The public gardens known as the “Alameda Gardens” and all the roads, paths, walks and ornamental buildings  
therein shall continue to be perpetually set apart for the health recreation and enjoyment of all Her Majesty’s  
subjects and others inhabiting or being in Gibraltar and shall be managed and maintained...’

275 What we are doing is replacing that provision with a wider provision here... substituting, but the  
principle of the gardens themselves being set aside perpetually for that purpose, that does not originate here  
with this Bill. That is not a new invention of this Government, and even if it was it would not be  
objectionable for the reasons I, and the Chief Minister, have stated. It is not something that we have come  
up with ourselves. It is something we have adopted from what already existed... from in fact what already  
280 exists since 1950, and for those reasons it seems to us that we would just ask the hon. Member to reflect and  
recognise that there is that provision already. All we are doing is continuing the form of wording, but  
substituting certain things. Substituting other things, but that particular wording about the gardens being  
*perpetually* set aside for that purpose, that is just a continuation of what the state of play has been since  
1950 and that is what we want to do.

285 I understand the hon. Member wishes me to give way. I am happy to do so.

**Hon. D A Feetham:** Mr Speaker, thank you very much.

Mr Speaker, I am very grateful to the hon. Gentleman for the way that he has explained the existing  
provisions. Both as a Minister for Justice and also in my capacity as a lawyer, I have never come across a  
290 situation where there has been an Act of Parliament that seeks to do something perpetually.

Acts of Parliament seek to do things and until a subsequent Parliament actually changes what a previous  
Parliament has done, it remains extant – that remains the position – and really to me the word ‘perpetually’  
seemed just simply gesture politics in circumstances where it just simply could not be because you could  
not bind somebody or a future Parliament perpetually.

295 But, Mr Speaker, on the basis of the –

**Mr Speaker:** May I draw...

Perhaps Members may wish to clarify? In 1950 there may not have been a legislature and it may not  
have been an Act of Parliament. It may have been the City Council enacting legislation which was given the  
300 force of law subsequently in the Public Health Ordinance, but it may not have been enacted by this  
legislature which was not inaugurated until November 1950.

**Hon. D A Feetham:** Well, Mr Speaker, I am very grateful for that. Obviously your experience and your  
immense wealth of experience has brought something interesting to bear in relation to this particular debate,  
305 because, Mr Speaker, we are not taking a position here for the sake of being difficult; indeed, I said we will  
abstain because generally it is a worthwhile Bill. We are not going to vote against it. It is just that I  
personally do not like, and we do not like this use of the word ‘perpetually’. Never come across it before in  
legislation and it appeared to me that really it added absolutely nothing and was just simply gesture politics.

310 But on the basis of the explanation that he has given me, which is that really this is just simply a  
continuation of what is there at the present moment, well look, when there is gesture politics where there is  
a matter of principle... really one ought not to be using that particular word or not, the hon. Gentleman has  
persuaded the Opposition to then support the Bill.

315 **Hon. Chief Minister:** Thank you, very much. (*Interjections and laughter*)

**Hon. G H Licudi:** Mr Speaker, I will not labour the point any more in the light of the statement that has  
been made. We are in fact very grateful that the hon. Member has relented and seen that in the context that  
we have put it that this was the right way to proceed.

320 **Mr Speaker:** Does the hon. mover wish to reply?

325 **Hon. Dr J E Cortes:** Mr Speaker, in the light of that, and I am grateful to the Opposition for having conceded on that, and grateful to my colleagues on this side of the House for their dealing with that point and convincing the Opposition accordingly, I have very little to add other than just to say that I did not consider my speech to be self-praise, but rather praise for the team that has worked there through the years, and I did make a reference to that. It has been a huge task. I remember the state of the gardens back in 1988 and through... sorry, back in 1991, which is when the gardens were converted and how we were able to improve them. The hard work of many people through 20 years is the one that I want to acknowledge here and not mine, that is for others to do, although this work has been praised in the past by successive Administrations, including the Government of the party now in Opposition.

330 One clarification that the Leader of the Opposition has asked for is the question of charge. This is relating specifically to the open air theatre where groups and organisations will put on events and will charge for entrance and that is the kind of event that could occasionally, although it never has to my knowledge, happen elsewhere in the gardens, but specifically this is to allow the continuation of events to be charged for at the open air theatre.

335 Mr Speaker, in finalising what I have to say, let me just say that a botanic garden is a very special kind of garden, not at all in conflict with its recreational use. The very part, the essence of its educational use, and what this House is unanimously going to do today is a significant step in enhancing Gibraltar's position internationally. There is a huge following of botanic gardens and it strengthens the involvement of the Gibraltar Botanic Gardens in the international organisations that it belongs to, to be able to say that like other gardens, like the Royal Botanic Gardens, it is in fact supported by the Statute of the Nation in which it is set. (*Interjections*)

345 **Hon. D J Bossino:** He was concluding in relation to the point that in fact I would seek clarification on. Is the definition of a 'botanic garden', as set out in the Bill – I think it is literally the last provision which lists from (a) to (h) what it in fact means in quite a lot of particularity – is that the effect in summary form of what describing the Alameda Gardens as the Gibraltar Botanical Gardens will be? Can he confirm that?

350 **Hon. Dr J E Cortes:** Mr Speaker, that reflects the botanical aspects of the work that is being done at the moment in the Botanic Gardens. As I said before it is also recreational. It is also educational. But that defines the botanical aspects and I believe is taken from definitions in one of the international organisations that the gardens belong to.

355 Having said that, I once again commend the Bill to the House.

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

**Substitute Clerk:** The Public Health (Amendment) Act 2014.

**Public Health (Amendment) Bill 2014 –  
Committee Stage and Third Reading to be taken at this sitting**

360 **Minister for Health and the Environment (Hon. Dr J E Cortes):** Mr Speaker, I beg to give notice that the Committee Stage and Third Reading of the Bill be taken today, if all hon. Members agree.

**Mr Speaker:** Do all hon. Members agree that Committee Stage of this Bill be taken later today? (**Members:** Aye.)

**Environmental Protection (Controls on Ozone-Depleting Substances) Bill 2014 –  
First Reading approved**

365 **Substitute Clerk:** A Bill for an Act to give effect in the law of Gibraltar to Regulation (EC) No. 1005/2009 of the European Parliament and of the Council of 16th September 2009 on substances that deplete the ozone layer, as amended by Commission Regulation (EU) No. 744/2010 of 18th August 2010 with regard to the critical uses of halons...?

370 The Hon. the Minister for Health and the Environment.

**Minister for Health and the Environment (Hon. Dr J E Cortes):** Yes, Mr Speaker, halons... not halos.

375 Mr Speaker, I have the honour to move that the Bill for an Act to give effect in the law of Gibraltar to Regulation (EC) No 1005/2009 of the European Parliament and of the Council of 16th September 2009 on substances that deplete the ozone layer, as amended by Commission Regulation (EU) No 744/2010 of 18th August 2010, with regard to the critical uses of halons be read a first time.

380 **Mr Speaker:** I now put the question, which is that a Bill for an Act to give effect in the law of Gibraltar to Regulation (EC) No 1005/2009 of the European Parliament and of the Council of 16th September 2009 on substances that deplete the ozone layer, as amended by Commission Regulation (EU) No 744/2010 of 18th August 2010, with regard to the critical uses of halons, be read a first time. Those in favour? **(Members: Aye)** Those against? Carried.

**Substitute Clerk:** The Environmental Protection (Controls on Ozone-Depleting Substances) Act 2014.

**Environmental Protection (Controls on Ozone-Depleting Substances) Bill 2014 –  
Second Reading approved**

385 **Minister for Health and the Environment (Hon. Dr J E Cortes):** Mr Speaker, I have the honour to move that the Bill be now read a second time.

390 Mr Speaker, the Bill implements in Gibraltar the Regulation already referred to, with regard to the critical uses of halons. The Act, together with the subsidiary legislation published by way of legal notices, will implement in Gibraltar the Copenhagen 1992, Montreal 1997 and Beijing 1999 amendments to the Montreal Protocol on the Substances that Deplete the Ozone Layer, which Her Majesty's Government of Gibraltar has asked the United Kingdom to extend.

In implementing the Regulation, in clause 3 designates the competent authority in Gibraltar for the purposes of the Bill. The competent authority is the Minister with responsibility for the Environment.

395 Clause 4 sets out the offences for breach of the EU regulation, which are more particularly set out in schedule 2 of the Bill.

400 The following offences have also been created: failing to comply with an enforcement notice; failing to comply with a notice under clause 11; intentionally obstructing any person acting in its execution or enforcement of the regulation; failing to give any person who acts in the execution or enforcement of the regulation any assistance or information which that person may reasonably require; furnishing any information, knowing it to be false or misleading; failing to produce a document or record to any such person acting in the execution or enforcement of the EU regulation.

Clause 5 sets out the penalty provisions.

Clause 6 deals with the liability of a body corporate for offences committed under the Bill.

405 Clauses 7 to 10 cover the enforcement provisions, which include in clause 7 the Environmental Agency having power to enforce a regulation. Subclause (2) sets out that the Minister with responsibility for the Environment will enforce the Regulations. Subclause (3) sets out that the Minister with responsibility for the Environment would enforce the Regulation in relation to offshore installations. The meaning of offshore installations is set out in schedule 1 to the Bill.

410 Clause 8 empowers the enforcing authority to authorise any persons as may be required for the purposes of enforcing the Regulation.

415 Clause 9 deals with issuing of enforcement notices for the purposes of requiring a person to take specified steps to remedy or avert a contravention. It empowers an authorised person to serve an enforcement notice upon a person if the authorised person is of the opinion that another person has contravened or is contravening the provision of the EU Regulation. An authorised person has been defined in clause 2 of the Bill. An authorised person means a person authorised by the Environmental Agency or by the Minister under Clause 8.

420 This Clause also sets out the requirements in relation to the enforcement notice. It must state that the authorised person is of that opinion, specify the matters constituting the contravention or the matters making it likely that the contravention will arise, as the case may be, specify the steps that must be taken to remedy or avert the contravention, specify the period within which those steps must be taken and state (1) that the person on whom the notice is served has the right of appeal to the Magistrates Court; and (2) the period within which the appeal may be brought.

An enforcement notice may at any time be withdrawn by an authorised person. Also, a person on whom an enforcement notice is served must comply with it at their own expense and if an enforcement notice is

425 not complied with, the enforcing authority may arrange for it to be complied with at the expense of the person on whom it was served.

Clause 10 sets out the special provisions in respect of enforcement notices.

430 Clause 11 deals with the powers of the Minister under the Bill. The Minister with responsibility for the Environment may by notice require a person in possession of a controlled substance or product or equipment containing or relying on a controlled substance that has been produced, placed on the market or imported or is intended to be or is being exported in contravention of the EU Regulation, to dispose of it or otherwise render it harmless in accordance with the notice.

435 Clause 12 deals with the powers of customs officers to detain and seize any controlled substance or product or equipment which the customs officer believes is being imported in contravention of Article 15 of the EU Regulation or exported in contravention of Article 17 of the Regulation. The Collector of Customs is also empowered under this clause to detain in his custody anything detained and seized by customs officers pending proceedings or until it is decided that proceedings shall not be brought.

Clause 13 places a duty on the Minister with responsibility for the Environment to review the Act and submit reports in accordance with the requirements of the EU Regulation.

440 And finally, clause 14 repeals the Environmental Protection (Controls and Substances that Deplete the Ozone Layer) Act 1997 which implements Regulation No 3093/94 on Substances that Deplete the Ozone Layer, as this EC Regulation has been replaced by this one.

I commend the Bill to the House.

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

450 **Hon. D A Feetham:** Mr Speaker, no. Just to say that this is the implementation of an EU directive and therefore it will enjoy the support of the Opposition bench.

**Mr Speaker:** I will therefore put the question, which is that a Bill for an Act to give effect in the law of Gibraltar to Regulation (EC) No 1005/2009 of the European Parliament and of the Council of 16th September 2009 on Substances that Deplete the Ozone Layer, as amended by Commission Regulation (EU) No 744/2010 of 18th August 2010, with regard to the critical uses of halons, be read a second time. Those in favour? (**Members:** Aye.) Those against? Carried.

**Substitute Clerk:** The Environmental Protection (Controls on Ozone Depleting Substances) Act 2014.

**Environmental Protection (Controls on Ozone-Depleting Substances) Bill 2014 –  
Committee Stage and Third Reading to be taken at this sitting**

460 **Minister for Health and the Environment (Hon. Dr J E Cortes):** Mr Speaker, I beg to give notice that the Committee Stage and Third Reading of the Bill be taken, if all hon. Members agree.

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

**Gibraltar Merchant Shipping (Safety, etc) (Amendment) Bill 2014 –  
First Reading approved**

465 **Substitute Clerk:** A Bill for an Act to amend the Gibraltar Merchant Shipping (Safety, etc.) Act 1993. The Hon. the Minister for Tourism, Commercial Affairs, Public Transport and the Port.

**Minister for Tourism, Commercial Affairs, Public Transport and the Port (Hon. N F Costa):** Mr Speaker, I have the honour to move that a Bill for an Act to amend the Gibraltar Merchant Shipping (Safety, etc.) Act 1993 be read a first time.

470 **Mr Speaker:** I now put the question that a Bill for an Act to amend the Gibraltar Merchant Shipping (Safety, etc.) Act 1993 be read a first time. Those in favour? (**Members:** Aye.) Those against? Carried.

**Substitute Clerk:** The Gibraltar Merchant Shipping (Safety, etc.) (Amendment) Act 2014.

**Gibraltar Merchant Shipping (Safety, etc) (Amendment) Bill 2014 –  
Second Reading approved**

**Minister for Tourism, Commercial Affairs, Public Transport and the Port (Hon. N F Costa):**  
Mr Speaker, I have the honour to move that the Bill be now read a second time.

475 Mr Speaker, this is a short, in fact I should say extraordinarily short belt-and-braces Bill to ensure that  
the 1996 Protocol to the Convention on Limitation of Liability for Maritime Claims 1976 is given full effect  
in Gibraltar. It does so by inserting ‘as amended from time to time’ after the Conventions full title in the  
schedule to the principal Act.

480 Both the Convention and the Protocol were extended to Gibraltar some time ago and the Protocol has, in  
any event, already entered our legislation through an administrative instruction published as a legal notice  
in the *Gazette*, in a Legal Notice 2014/019 of 20th February of this year.

For the information of this House, the Protocol, as reflected in the administrative instruction just  
mentioned, raises the limits of liability for maritime claims and provides a simpler mechanism for future  
increases to the limits of liability.

485 I would also note, Mr Speaker, that an additional benefit of the amendment is that it will cater for any  
future changes to the Convention which affect Gibraltar, without needing to amend the principal Act.

Mr Speaker, I commend the Bill to the House.

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

I now put the question, which is that a Bill for an Act to amend the Gibraltar Merchant Shipping  
(Safety, etc.) Act 1993 be read a second time. Those in favour? (**Members:** Aye.) Those against? Carried.

**Substitute Clerk:** The Gibraltar Merchant Shipping (Safety, etc.) (Amendment) Act 2014.

**Gibraltar Merchant Shipping (Safety, etc) (Amendment) Bill 2014 Bill 2014 –  
Committee Stage and Third Reading to be taken at this sitting**

495 **Minister for Tourism, Commercial Affairs, Public Transport and the Port (Hon. N F Costa):**  
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.

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

**Marriage (Amendment) Bill 2014 –  
First Reading approved**

**Substitute Clerk:** A Bill for an Act to amend the Marriage Act.  
The Hon. the Chief Minister

505 **Chief Minister (Hon. F R Picardo):** Mr Speaker, I have the honour to move that a Bill for an Act to  
amend the Marriage Act be read a first time.

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

510 **Substitute Clerk:** The Marriage (Amendment) Act 2014.

**Marriage (Amendment) Bill 2014 –  
Second Reading approved**

**Chief Minister (Hon. F R Picardo):** Mr Speaker, I beg to move that the Bill for an Act to amend the Marriage Act be read now a second time.

515 Mr Speaker, the purpose of this Bill is to derive greater economic benefit for Gibraltar from those who are contemplating getting married here or on a Gibraltar flag ship. It does so in two ways. Firstly, by requiring couples who are married under a special licence to spend at least one night in Gibraltar with the attendant hotel restaurant and related spending that this will hopefully entail. Secondly, by permitting marriages by Gibraltar appointed Deputy Registrars to be contracted on board passenger ships registered in Gibraltar.

520 Mr Speaker, with regard to the overnight stay, I should point out that the Government has been careful not to make the requirement onerous or rigid – for example, by allowing the night in question to be either before or after the marriage is contracted and so we are not requiring consummation to now occur in Gibraltar in any way, Mr Speaker, by changing the Bill in this way – and by allowing the parties to choose to meet the requirement by spending the relevant night as the guests of a Gibraltar resident, rather than an hotel, if appropriate.

525 Further, Mr Speaker, this policy of the Cabinet was the result of a detailed consultation by the Minister for Tourism, who would have moved this Bill, but this is a matter of personal status and therefore under my ministerial responsibility, with all the relevant stakeholders individually and via the United Kingdom Tourism Association. I am sure that it will please the House to learn, Mr Speaker, that there was unanimous agreement as to the potentially advantageous effects of this new policy initiative.

530 Mr Speaker, the House will want to note that the one-night-stay requirement – also absent the requirement for it to be consummation – is already (*Laughter*) included in the Civil Partnership Act at section 12.

535 With regard to the amendments to facilitate special licence marriages to be contracted aboard Gibraltar registered passenger ships by Gibraltar appointed Deputy Registrars, the Government expects that over the long term, and given the many other benefits to registering under the Gibraltar flag, these changes to the Act may actually persuade the owners of passenger ships to re-register their vessels under the Gibraltar Flag, which would be a very good thing too.

Before I conclude, I stress that the amendments today proposed to the Marriage Act do not affect Gibraltar residents and that the legal requirements remain as before in respect of marriages by residents.

540 Mr Speaker, this Bill is one more example of the Government commitment to promote Gibraltar as a tourism destination and to be innovative in its approach to developing the activities of the Gibraltar Ship Registry.

I commend the Bill to the House.

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

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

550 **Substitute Clerk:** The Marriage (Amendment) Act 2014.

**Marriage (Amendment) Bill 2014 –  
Committee Stage and Third Reading to be taken at this sitting**

555 **Chief Minister (Hon. F R Picardo):** Mr Speaker, I beg to give notice that the Committee Stage and Third Reading of the Bill be taken today, if all hon. Members agree.

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

**Gibraltarian Status (Amendment) Bill 2014 –  
First Reading approved**

**Substitute Clerk:** A Bill for an Act to amend the Gibraltarian Status Act.



560 The Hon. the Chief Minister.

**Chief Minister (Hon. F R Picardo):** Mr Speaker, I have the honour to move that the Bill for an Act to amend the Gibraltarian Status Act be read a first time.

565 **Mr Speaker:** I now put the question, which is that the Bill for an Act to amend the Gibraltarian Status Act be read a first time. Those in favour? (**Members:** Aye.) Those Against? Agreed.

**Substitute Clerk:** The Gibraltarian Status (Amendment) Act 2014.

**Gibraltarian Status (Amendment) Bill 2014 –  
Second Reading approved**

570 **Chief Minister (Hon. F R Picardo):** Mr Speaker, I have the honour to move that the Bill be now read a second time.

Mr Speaker, this short Bill does two things in respect of this Act. The first is that it provides that so long as a father's name appears on a child's birth certificate where there is a relationship between a father and child, whether it is legitimate or illegitimate, the child will be able to be registered under the Gibraltarian Status Act, something which is not the case at the moment and has caused a lot of angst and hardship to many people in families which these days are not necessarily families that emerge in marriage.

575 Mr Speaker, we think that it is appropriate to make this change. Being registered under the Gibraltarian Status Act means a lot to people, who are Gibraltarian otherwise by blood, and Mr Speaker, the inability to have one's offspring registered under the Act does cause people a huge amount of concern. The Government is happy to move to make this amendment.

580 Mr Speaker, the Act has been on our Statute Book since 1962 and has seen society change. There have been changes made previously to the Act – for example, to allow the children of Gibraltarian women to register as Gibraltarian, whereas before the lineage was dealt with in only the male line. Mr Speaker, it is also true that the changes or the reason for the Act in 1962 was to ensure principally that in a referendum those who were able to vote would be those registered under this Act and not all and sundry who might be resident in Gibraltar.

585 The first referendum came in 1967, Mr Speaker, and it was only those registered under the Act then that were able to vote. The second in our lifetimes – certainly in the lifetimes of those of the younger generation of this Parliament perhaps, the only one we lived through and the one that most of us in this room were able to vote in – was in 2002. In that instance the franchise was extended by this House, Mr Speaker, by common agreement to all British Citizens who were resident in Gibraltar for more than 10 years.

590 Mr Speaker, that brings me to the second amendment, which is the amendment to section 9(f) of the Gibraltarian Status Act, which deals with how people can become eligible to register under the Gibraltarian Status Act if they are not otherwise eligible to be so registered.

595 Mr Speaker, under the existing Act an individual would have to be British and resident in Gibraltar for more than 25 years and at least the last 10 years before they sought registration. In 1962, Mr Speaker, 25 years is what one might call a lifetime – certainly a very long time indeed.

600 Mr Speaker, today, in a world of 24-hour news and instant communication, when somebody gives a country 10 years of their lives, they are probably giving it the equivalent of 25 years of their lives so many years ago. The world is now a very small place. People are able to move from one place to another at the drop of a hat. In the European Union we can move from one state to another without the need to seek permission. So somebody who stays in Gibraltar for 10 years stays because Gibraltar means something to them and that was clearly recognised by this House in extending the franchise to those British citizens who had been here for more than 10 years in the seminal referendum of 2002 that saw off the joint sovereignty proposals of the British and Spanish Governments and, as I said yesterday, of course with the important input that we had from our friends in Parliament through our Gibraltar representative.

605 Mr Speaker, we have therefore taken the view that if in a seminal moment such as came in 2002 we were prepared to exchange the franchise 12 years ago to British people who had been here more than 10 years, it is right that we also extend not just the franchise, but the right to be registered and identified as Gibraltarian under the Gibraltarian Status Act to people who have been here for more than 10 years and who are British citizens. There are people, Mr Speaker, who are here because they love Gibraltar. They love Gibraltar probably as much as we all love Gibraltar. They have made Gibraltar their home. They bring their families to Gibraltar. This is the place where they wish to live the rest of their lives. This is the place where they wish to be buried.

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615 Mr Speaker, in English tax – something much less emotional than being registered as a Gibraltar – one’s domicile is defined as the place where one wishes to be buried. So for many people, even under the much colder tax statute, many of those British people would consider Gibraltar their domicile and would objectively be deemed to see Gibraltar as their domicile. They are part, Mr Speaker, of the Gibraltar family and there is no reason why they should not be able to register under the Gibraltar Status Act as Gibraltarians do.

620 I commend the Bill to the House. (*Banging on desks*)

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

625 I will now put the question, which is that a Bill for an Act to amend the Gibraltar Status Act be read a second time. Those in favour? (**Members:** Aye.) Those against. Carried.

**Substitute Clerk:** The Gibraltar Status (Amendment) Act 2014.

**Gibraltar Status (Amendment) Bill 2014 –  
Committee Stage and Third Reading to be taken at this sitting**

630 **Chief Minister (Hon. F R Picardo):** Mr Speaker, I beg to give notice that the Committee Stage and Third Reading of the Bill be taken today, if all hon. Members agree.

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

**COMMITTEE STAGE**

635 **Marriage (Amendment) Bill 2014;  
Gibraltar Status (Amendment) Bill 2014;  
Public Health (Amendment) Bill 2014;  
Environmental Protection (Controls on Ozone-Depleting Substances) Bill 2014;  
Public Health (Amendment) Bill 2014;  
Criminal Procedure and Evidence (Amendment) Bill 2014;  
Prison (Amendment) Bill 2014;  
640 Gibraltar Merchant Shipping (Safety, etc.) (Amendment) Bill 2014.**

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

645 **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 Marriage (Amendment) Bill 2014; the Gibraltar Status (Amendment) Bill 2014; the Public Health (Amendment) Bill 2014; the Environmental Protection (Controls on Ozone-Depleting Substances) Bill 2014; the Public Health (Amendment) Bill 2014; the Criminal Procedure and Evidence (Amendment) Bill 2014; the Prison (Amendment) Bill 2014; and the Gibraltar Merchant Shipping (Safety, etc.) (Amendment) Bill 2014.

*In Committee of the whole Parliament*

650 **Marriage (Amendment) Bill 2014 –  
Clauses considered and approved**

**Substitute Clerk:** A Bill for an Act to amend the Marriage Act.  
Clauses 1 and 2 and the long title.

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

**Gibraltarian Status (Amendment) Bill 2014 –  
Clauses considered and approved**

655 **Substitute Clerk:** A Bill for an Act to amend the Gibraltarian Status Act.  
Clauses 1 and 2 and the long title.

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

**Public Health (Amendment) Bill 2014 –  
Clauses considered and approved**

660 **Substitute Clerk:** A Bill for an Act to amend the Public Health Act.  
Clause 1.

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

665 **Substitute Clerk:** Clause 2.

**Minister for Health and the Environment (Hon. Dr J E Cortes):** Mr Chairman, as notified by letter dated 23rd May, 2014, and as I said in my speech earlier, I am proposing to delete in 269(1)(a) the words ‘resident in Gibraltar’, so that they shall be for the health, recreation and enjoyment of all persons.

670 **Mr Chairman:** Does any hon. Member wish to speak on the amendment?  
Is it agreed to? Carried.  
Clause 2, as amended, stands part of the Bill.

675 **Substitute Clerk:** The long title.

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

**Environmental Protection (Controls on Ozone-Depleting Substances) Bill 2014 –  
Clauses considered and approved**

680 **Substitute Clerk:** A Bill for an Act to give effect in the law of Gibraltar to Regulation (EC) No. 1005/2009 of the European Parliament under the Council of 16th September 2009 on substances that deplete the ozone layer as amended by Commission Regulation (EU) No 744/2010 of 18th August 2010, with regard to the critical uses of halons.  
Clauses 1 to 14 and schedules 1 and 2 and the long title.

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

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**Criminal Procedure and Evidence (Amendment) Bill 2014 –  
Clauses considered and approved**

**Substitute Clerk:** A Bill for an Act to amend the Criminal Procedure and Evidence Act 2011.  
Clauses 1 and 2 and the long title.

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

**Prison (Amendment) Bill 2014 –  
Clauses considered and approved**

**Substitute Clerk:** A Bill for an Act to amend the Prison Act 2011.

Clauses 1 to 5 and the long title.

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

**Gibraltar Merchant Shipping (Safety, etc) (Amendment) Bill 2014 –  
Clauses considered and approved**

695 **Substitute Clerk:** A Bill for an Act to amend the Gibraltar Merchant Shipping (Safety, etc.) Act 1993.  
Clauses 1 and 2 and the long title.

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

**BILLS FOR THIRD READING**

**Marriage (Amendment) Bill 2014; Gibraltarian Status (Amendment) Bill 2014;  
Public Health (Amendment) Bill 2014;  
Environmental Protection (Controls on Ozone-Depleting Substances) Bill 2014;  
Companies Bill 2014; Insolvency (Amendment) Bill 2014;  
Insolvency (Consequential Provisions) Bill 2014;  
Criminal Procedure and Evidence (Amendment) Bill 2011;  
Prison (Amendment) Bill 2014;  
Gibraltar Merchant Shipping (Safety, etc.) (Amendment) Bill 2014 –  
Third Reading approved: Bills passed**

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

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**Chief Minister (Hon. F R Picardo):** Mr Speaker, I have the honour to report that the Marriage (Amendment) Bill 2014; the Gibraltarian Status (Amendment) Bill 2014; the Public Health (Amendment) Bill 2014; the Environmental Protection (Controls on Ozone-Depleting Substances) Bill 2014; the Companies Bill 2014; the Insolvency (Amendment) Bill 2014; the Insolvency Consequential Provisions Bill 2014; the Criminal Procedure and Evidence (Amendment) Bill 2014; Prison (Amendment) Bill 2014; and the Gibraltar Merchant Shipping (Safety, etc.) (Amendment) Bill 2014 have all been considered in Committee and passed with amendment.

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Mr Speaker, I think the Criminal Procedure and Evidence (Amendment) Bill must be 2014, not 2011, despite the reference in the crib to it.

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**Mr Speaker:** I now put the question, which is that the Marriage (Amendment) Bill 2014; the Gibraltarian Status (Amendment) Bill 2014; the Public Health (Amendment) Bill 2014; the Environmental Protection (Controls on Ozone-Depleting Substances) Bill 2014; the Companies Bill 2014; the Insolvency (Amendment) Bill 2014; the Insolvency Consequential Provisions Bill 2014; the Criminal Procedure and Evidence (Amendment) Bill 2014; the Prison (Amendment) Bill 2014; and the Gibraltar Merchant Shipping (Safety, etc.) (Amendment) Bill 2014 be read a third time and passed.

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Those in favour of the Marriage (Amendment) Bill 2014? (**Members:** Aye.) Those against? Carried.

Those in favour of the Gibraltarian Status (Amendment) Bill 2014? (**Members:** Aye.) Those against? Carried.

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Those in favour of the Public Health (Amendment) Bill 2014? (**Members:** Aye.) Those against? Carried.

Those in favour of the Environmental Protection (Controls on Ozone-Depleting Substances) Bill 2014? (**Members:** Aye.) That is carried.

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Those in favour of the Public Health (Amendment) Bill 2014? (**Members:** Aye.) Those against? Carried.

Those in favour of the Companies Bill 2014? (**Members:** Aye.) Those against? Carried.

Those in favour of the Insolvency (Amendment) Bill 2014? (**Members:** Aye.) Those against? Carried.

Those in favour of the Insolvency (Consequential Provisions) Bill 2014? (**Members:** Aye.) Those against? Carried.

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Those in favour of the Criminal Procedure and Evidence (Amendment) Bill 2014? (**Members:** Aye.) Those against? Carried.

Those in favour of the Prison (Amendment) Bill 2014? (**Members:** Aye.) Those against? Carried.

Those in favour of the Gibraltar Merchant Shipping (Safety, etc.) (Amendment) Bill 2014? (**Members:** Aye.) Those against? Carried.

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**Mr Speaker:** Private Members' Motion?

**Hon. Chief Minister:** Mr Speaker, can I move now that the House recess for 15 minutes?

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**Mr Speaker:** Very well.

The House will now recess for 15 minutes.

*The House recessed at 3.47 p.m. and resumed its sitting at 4.14 p.m.*

#### PRIVATE MEMBER'S MOTION

##### Regulation of fishing in British Territorial Waters – Licences required to fish with nets – Statement from Government

**Substitute Clerk:** Private Member's Motion.

The Hon. D A Feetham.

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**Hon. D A Feetham:** Mr Speaker, I have the honour to move the motion standing in my name which reads as follows:

*'THIS HOUSE calls on the Government to provide an immediate comprehensive statement to the House as to its intentions in relation to the regulation of fishing in British Gibraltar Territorial Waters and whether it intends to require members of the La Linea and Algeciras Cofradias to apply for licences in Gibraltar to fish with nets in British Gibraltar Territorial Waters.'*

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Mr Speaker, it is important to place this debate in its proper context. In 1991, the then GSLP Government introduced the Nature Protection Ordinance, a very worthwhile piece of environmental legislation, which imposed an outright ban on fishing with nets, all types of nets, in British Gibraltar Territorial Waters. Mr Speaker, that was always bound to create a certain amount of tension, because whether we like it or not, whether it is right or not, Spanish fishermen have been fishing in British Gibraltar Territorial Waters with nets for generations.

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Mr Speaker, I had recently the pleasure of talking to a retired doctor and I think that he has published his views in an opinion piece in the *Chronicle*, but I am not going to mention his name out of an abundance of caution, just in case my recollection is not accurate. He said to me that during the 1950s when he was called on board a ship in order to treat a patient on board a ship, he had to navigate very many Spanish nets in the Bay out there in British Gibraltar Territorial Waters. Spanish fishermen have been fishing in our waters for many, many years. Of course, the Nature Protection Act, worthwhile as it is, went much further than similar environmental laws in other jurisdictions. Imagine, for example, Mr Speaker, if Spain and the United Kingdom had decided to impose an outright ban on fishing with nets in virtually the entirety of their territorial waters.

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Mr Speaker, it is of course for Parliament to introduce laws and it is for enforcement agencies to enforce those laws, and from 1991 to 1997 the Nature Protection Act was enforced with a level of common sense that has long been the hallmark of the Royal Gibraltar Police. There is no doubt that Spanish fishermen would come in to our waters. There is no doubt that they would lay nets, but when they were asked to move on by the RGP, they did so. There was never a policy, Mr Speaker, of zero tolerance, as indeed there is not a policy of zero tolerance in relation to many other areas of the law. The RGP had a discretion as to whether to invoke any of their powers or not.

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Mr Speaker, an outright ban does create tension, because sooner or later continued breaches of the law cannot be justified and inevitably lead to the full force of the law to be applied in any particular situation. I make that point, Mr Speaker, because I think that it is worthwhile legislation, and it is a worthwhile amendment, and the Government is not going to be criticised for coming to this House. Indeed it cannot come to this House now because it is going to have to do it by secondary legislation, but the Opposition will not criticise the Government for introducing legislation in Gibraltar that allows Spanish fishermen to fish with some form of EU-compliant nets, because we think it is perfectly reasonable for the Government to

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introduce legislation of that nature and end what is the present situation which is an outright, effectively, ban on the use of nets in most of or large parts of British Gibraltar Territorial Waters.

780 Mr Speaker, from 1997 to 1998 the actions of Spanish fishermen became much more militant. At the time the Government in Spain sought to harness that militancy to try and wage the type of campaign that we have recently witnessed in British Gibraltar Territorial Waters. It culminated, of course, in the arrest of a Spanish fishing vessel *La Piraña* and one curious but important factor that is often overlooked in an analysis of those events is that the Spanish fishing vessel *La Piraña* was loaded with Spanish journalists at  
785 the time that it was arrested. It was obvious that its entry into British Gibraltar Territorial Waters was designed to provoke a crisis, with maximum public and political exposure, and it did, because we all know that that arrest, justified as it was, led the Spanish fishermen to block the Frontier in protest and it led to some very ugly scenes indeed.

790 It is in that context, Mr Speaker, that my predecessor, as leader of the GSD, and indeed the Hon. the Leader of the House, as predecessor of the Chief Minister, in what must rank as one of the most intelligent... one of the most *intelligent* moves in Gibraltar's interest by any Chief Minister in the history of this place, managed to decouple Spanish fishermen from the influence of Madrid and managed to cut the strings allowing the puppeteer to control Spanish fishermen as an instrument of conflict against Gibraltar by entering into an Agreement directly with the Spanish fishermen, which completely defused a very difficult and dangerous situation indeed, so much so, Mr Speaker, that the PP Government at the time, whatever Mr  
795 Margallo may say at the moment, was absolutely disgusted with the Agreement and condemned it in very, very strong terms, and the reasons are obvious.

By that Agreement, Spanish fishermen agreed to genuflect to our sovereignty to our jurisdiction and control over our waters, and to genuflect and respect the instructions of the RGP and indeed the laws of  
800 Gibraltar. Above all what it did... what the 1999 Agreement did was to return to the *status quo* ante the outbreak of the crisis, and of course five of those years were years under the GSLP administration because at the time of the 1999 Agreement this was very much a nascent GSD administration. All the Agreement did was to find a diplomatic solution to a very significant and difficult problem for Gibraltar indeed.

805 That the GSD could have amended the Nature Protection Act, Mr Speaker, in order to allow for regulated fishing with nets. Yes, it could have, but that may be susceptible to criticisms. Perhaps it might be susceptible to criticism. I do not need to defend my predecessor, Mr Speaker, but having spoken to him, he has said that certainly during those early years and large parts of the time that he was Chief Minister, what he did not want to do was to be seen to be legislating under pressure from anybody, least of all under pressure from the Spanish Government. But, of course, we certainly had plans in 2011 to do so and had we  
810 been elected into office, we would have amended the Nature Protection Act in order to allow for regulated fishing with nets – in other words nets that comply with EU law – and indeed, we might have allowed fishing during some seasons or parts of the year and not during others. Therefore, again, Mr Speaker, I want to make it absolutely plain and clear that I do not criticise the Government for any plans to allow fishing with EU compliant nets in British Gibraltar Territorial Waters.

815 Mr Speaker, history is a great educator of men and it is a real shame that the hon. Gentleman opposite failed to learn from some of the events in the 1990s. It has never been the thrust of our criticism of the Government, but the Government should not have replaced the 1999 Agreement. It is the sudden confining of the 1999 Agreement to the dustbin of history without carefully thinking about the consequences of not having anything to take its place that has been the main thrust of our criticism. It was described,  
820 Mr Speaker, by the Chamber of Commerce as a rookie error, and indeed, I believe that that is a particularly apposite description of the error of the Government in its handling of this particular issue. All it did was to allow Spanish fishermen to make common cause with the PP Government in Spain and not only enter British Gibraltar Territorial Waters to fish with nets, but to do so escorted by the Guardia Civil.

825 So the very thing, Mr Speaker, that the 1999 Agreement did... the decoupling of the influence of the PP Government in Madrid over Spanish fishermen locally to the detriment of Gibraltar unfortunately was the inevitable conclusion of the actions of the present Government. From genuflection of our sovereignty, jurisdiction and control, it turned into an outright challenge of our sovereignty, jurisdiction and control, and the Government must accept responsibility for its part in that.

830 Mr Speaker, for all his championing of the rule of law, the rule of law in British Gibraltar Territorial Waters has not prevailed since he made his decision to tear up the 1999 Agreement. It was as large a monumental mistake as it was avoidable. The result, I repeat, is that the Spanish fishermen are now tools in the hands of the PP Government.

835 I began by saying, Mr Speaker, this part of my address, that history is a great educator of men. I know that the hon. Gentleman thinks that he can learn nothing from the GSD Government. We can speak about the rule of law all we like. The principal job and the principal concern of any Chief Minister of Gibraltar is to keep the people of Gibraltar safe and secure and to avoid anything that creates instability and insecurity within this jurisdiction that we are all here and this community that we are all here to serve and that we all love so much. This has just created, Mr Speaker, a huge sense of instability, insecurity and uncertainty, at a

840 time when it was obvious that the PP Government was looking for excuses, tools and pawns to use as a tool against Gibraltar. It was therefore incumbent, Mr Speaker, on the hon. Member, as Leader of this House and Leader of this community to deal with the situation as expeditiously as possible... a solution to the crisis as expeditiously as possible.

845 From the very early juncture, Mr Speaker, we said, 'Change the law to allow regulated fishing with nets'. Regulation can take a number of forms. You can either require Spanish fishermen to apply for a licence in Gibraltar or you may decide not to, because you may decide to recognise the fact that Spanish fishermen have been fishing in Gibraltar Waters for many, many years, and you decide to say, 'Well, look, if you are a member of the Cofradia of Algeciras or you are a member of the Cofradia of La Linea, we are going to treat you as if you are licensed in Gibraltar'. There are many ways in which to deal with the issue. 850 Likewise, Mr Speaker, one can allow fishing with nets in particular seasons and not allow it in others in order to allow fishing stocks to recover, but what was required was very early intervention and not allowing the wound to fester for years.

855 Had they come to this Parliament at an early juncture to amend the Nature Protection Act, we would have supported it. Instead, Mr Speaker, the hon. Gentleman, Mr Picardo, the Chief Minister has prevaricated and prevaricated to the extent that in my view positions have hardened and it has become much more difficult to deal with the situation. He has become a prisoner of his early mistakes, for reasons that I am going to develop in a few moments. Mistakes that explain his constant ducking and diving and the refusal to answer my questions in this Parliament, as is his obligation as Chief Minister of Gibraltar, because by answering my questions he becomes accountable to the people of Gibraltar, the very same people who elected him to serve as Chief Minister in the first place. (A Member: Hear, hear.) (*Banging on desks*) Before I do so, Mr Speaker – (*Interjections*) I want to give an account of what has happened since the Government decided to tear up the 1999 Agreement in that rookie error in the first place. 860

865 Mr Speaker, on 30th March 2012 the Government issued a press release stating that technical talks were to take place with the Spanish fishermen in order to explain the Government's stance, post the tearing up of the 1999 Agreement. Surprisingly, Mr Speaker, those talks took place with the Commissioner of Police, not with the Government. Of course, the Spanish fishermen came to that meeting armed with their own proposals to deal with the situation, and we saw the unseemly sight, Mr Speaker, of the Commissioner of Police having to be a messenger in between Spanish fishermen and the Chief Minister of Gibraltar.

870 On 17th April, the Government recognised that it would have to deal with the Spanish fishermen directly and not just shelter behind the Commissioner of Police. The Hon. the Chief Minister, the Deputy Chief Minister and the Minister for the Environment met with Spanish fishermen to explain their policy.

875 In May 2012, the Government then announced the creation of a Cross-Border Commission, which would ultimately provide input and inform the production of a Government sponsored report, and I quote, the management... the 'Report on the Management of Marine Living Resources in the Waters around Gibraltar' or colloquially referred to as the fishing report.

880 On 3rd August the Chief Minister met with representatives of the Cofradia de Algeciras and proclaimed that, and I quote, 'very considerable progress had been made by the Commission'. That is in August of the very year of March that Government broke, or tore up the 1999 Agreement and he said that within 10 days preliminary recommendations would be made. All then went quiet, Mr Speaker, except that all the while the Spanish fishermen kept on coming into British Gibraltar Territorial Waters fishing with impunity, either accompanied or not accompanied by the Guardia Civil.

885 And it is not until December 2012 when the Government said that it had received, finally received the fishing report, but of course that fishing report could not be published because, in the words of the Minister for the Environment, the report needed to be formatted. The formatting of the report took another six months until June 2013, when under intense public pressure, Mr Speaker, the Chief Minister bowed to that pressure and decided to publish the report.

890 Mr Speaker, the one indisputable fact about that report is that the report does not recommend, *does not recommend* a change in the law in order to relax the law on fishing with nets in British Gibraltar Territorial Waters. Mr Speaker, a Government is never bound, *never bound* to follow recommendations of a report. It has happened on many occasions that Governments have not followed *all* the recommendations of a report that they themselves commissioned. But it took the Government over a year from when the conflict first broke to the time they decided to publish the report, and then the Government decides not to follow the recommendations.

895 Well, look, Mr Speaker, the people of Gibraltar are entitled to ask what on earth has it all been for? What on earth has the Government been playing at in relation to this particular issue? People can see there is more fishing in British Gibraltar Territorial Waters than ever before.

Mr Speaker, in November 2013, the Government then introduced amendments to the Nature Protection Act to allow for secondary legislation to be introduced to allow, it appeared from public statements made by the Government... it is not clear from the Act itself, but from public statements made by the

900 Government, for regulated fishing with nets in British Gibraltar Territorial Waters. It certainly allowed for those regulations to be introduced.

The Government decided to take advantage of the Opposition, as it was their right to take advantage of the Opposition's absence because of the Credit Finance issue, in order to plough ahead with the debate on the Bill, despite the fact that we had indicated that we would be returning after lunch for that debate. They decided that is their prerogative. But, Mr Speaker, it is not right to say, as he has said, and his supporters  
905 have propagated in social media and elsewhere, that the reason why the Government has not provided proper explanations to this House and through this House to the people of Gibraltar is because the Opposition did not participate in that debate.

I have asked him questions about what the Government intends to do about regulation in British Gibraltar Territorial Waters on four or five occasions *in this House*, Mr Speaker, and he has refused to answer those questions on every single occasion. If anybody saw the interview that the hon. Gentleman gave after the interview that Stephen Neish did with me precisely on this issue, people would have seen that the Hon. the Chief Minister is simply ducking and diving using every excuse in the book so as not to account to the people of Gibraltar as to the Government's intentions as to what it intends to do in British Gibraltar Territorial Waters.  
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Mr Speaker, he is the Chief Minister who described himself as the new dawn Chief Minister leading the new dawn Government. He is the time for change, Chief Minister, leading the time for change Government. Well, what kind of new dawn? What kind of change? It is a situation, Mr Speaker, where we know that people across the border in Spain know more about the intentions of the Government of Gibraltar, about what it intends to do in British Gibraltar Territorial Waters than Her Majesty's Opposition here in Gibraltar, than the people of Gibraltar, because he has not deigned to make a statement to this House in this Parliament, which after all is here to serve the people of Gibraltar.  
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We know, Mr Speaker, that there have been proposals, that have been put, or certainly a discussion paper that has been put to Spanish fishermen, because the Government itself has admitted that that is so in statements that it has made to the media here in Gibraltar. I understand the difficulty that he has. I really do. I understand that if you take the decision to effectively dumb down the law or relax the law and allow for fishing with nets in British Gibraltar Territorial Waters, the last thing that you want, of course, is to dumb down the law and then have Spanish fishermen coming into British Gibraltar Territorial Waters and still breaking our laws.  
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It is eminently sensible – because I have said it to him before that he should do so – to effectively go to Spain, talk to the Spanish fishermen and try and obtain a measure, *not* an agreement, because that implies that Spanish fishermen will have a veto as to what happens in Gibraltar, which is an anathema to anybody that loves this country and loves this Parliament; but, of course, at the very least explain to them and consult with them in relation to the proposed changes. He is caught on the horns of a dilemma because if they do not buy into the legislation, as it is going to be amended, he is going to have exactly the same situation as is happening now with Spanish fishermen coming into British Gibraltar Territorial Waters breaching our laws, but with a law that is significantly dumbed down and relaxed, and that is not going to be acceptable to anybody, least of all to the people of Gibraltar.  
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Mr Speaker, laws are there to be enforced and the reality is, Mr Speaker, that at some stage we are all going to have to collectively look at ourselves and there is going to be an outcry in this community, in the sense that at some stage we are just simply going to have to enforce those laws. What I urge him to do, Mr Speaker, is to bite the bullet. If he thinks that what is good for this jurisdiction is to introduce proper regulated fishing in British Gibraltar Territorial Waters, go ahead and do it. You have tried to explain it to the Spanish fishermen. They have not accepted it. Well, go ahead and do it, but let us make sure that nobody makes a mockery of our laws in the future. Let us make sure that if having introduced those laws, and those laws continue to be breached with impunity, that something is done about it, Mr Speaker.  
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But, of course, unfortunately, Mr Speaker, because the hon. Gentleman refuses to make a statement in this House and refuses to provide answers to the questions that I have sought, which are very reasonable questions and well within the remit of what is within my responsibility as Leader of the Opposition, we do not know what the Government intends to do and we can only speculate.  
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But I urge the hon. Member to take a leaf out of his own political discourse at the last election and to be transparent, to be open about this particular issue, and to make a full statement about what he intends to do in British Gibraltar Territorial Waters.  
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Mr, Speaker, I commend the motion to the House. *(Banging on desks)*

**Mr Speaker:** I now propose the question in the terms of the motion moved by the Hon. the Leader of the Opposition, Mr Daniel Feetham.  
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I call upon the Hon. the Chief Minister.

**Chief Minister (Hon. F R Picardo):** Mr Speaker, I am grateful.



960 Mr Speaker, I think it is important that after that full frontal attack apparently on my credibility, given what the hon. Gentleman has said, which really puts one in mind of that great phrase of that great defender of self-determination, Margaret Thatcher, that one feels like one has been mauled by a sheep. It is worth reading the motion that the hon. Member has put and not really spoken to.

He says this in his motion:

‘This House calls on the Government to provide an immediate comprehensive statement to the House as to its intentions in relation to the regulation of fishing in British Gibraltar Territorial Waters *and* whether it intends to require Members of the La Linea and Algeciras Cofradias to apply for licences in Gibraltar to fish with nets in British Gibraltar Territorial Waters.’

965 So I guess that is ‘and whether *in particular* the intention would be’, because otherwise they are two statements of intention. Okay, well, that is the motion, and I will go through some of the things that the hon. Gentleman has said about what he likes to call the fishing ‘crisis’, in the context of my reply to what he has said; but I need to draw the attention of the House to the wording of the motion and what the motion, as  
970 drafted, tries to get at.

He uses the word ‘intention’. Intention means – and this is the longer Oxford Dictionary... the 20 volume one which it was long my ambition to possess and is now in my possession – the action of straining or directing the mind or attention to something; mental application or effort; attention; intent observation or regard; endeavour; the action or faculty of understanding; a way of understanding; the way in which  
975 anything is to be understood; the action of intending or proposing; the volition which one is minded to carry out; that which is intended or proposed; a purpose or a design.

Mr Speaker, the Government is answerable in this House for the things that it does, but we are not answerable for our thoughts. We are not answerable for simply wanting to consider things and develop them. The hon. Gentleman is not entitled to come into our heads and see what we are thinking about.

980 My old law tutor used to say that intent is something that can never be objective. Somebody who kills another person may kill him in an act of self-defence, where there was no intention to kill. He used to say to me that there is not a light on anybody’s head that goes on when they *intend* to murder and is not on if they kill without intention.

The reason for that analysis of what it is that the word ‘intention’ means is very simply this. In the  
985 context of asking questions in this House in the context of this motion, hon. Members opposite seem to think that they are entitled not just to reports, but to work done in the context of preparing reports; not just final reports, but *draft* reports; not just ‘what is your policy?’, also ‘what do you think might be your policy?’. Mr Speaker, it is not possible to conduct a Government on the basis of simply telling the hon. Gentleman *everything* we are thinking. You would have thought if they had conducted themselves in  
990 Government from a position of giving us *all* their preparatory work, *all* their reports and defending that level of transparency, it would be right for them to demand the same; but they did not even give us the final fruit of work.

Yesterday, we looked at what reports they did not give us. They did not give us the report into GBC. They did not give us the report into Customs. Any report which they had prepared they said was internal  
995 and for the Government. We went to the Election saying we would be more transparent. We would publish those reports and we would publish any report we obtained, and we will; but it does not mean that we have to give them every scrap of paper on which we may write something whilst we prepare a report. That is not transparency, Mr Speaker. That is absolutely ridiculous. It would be impossible to conduct a Government in that way and the hon. Gentleman knows it.

1000 He knows that by asking us about our intention, he is really intending to put us in an impossible position and I will start replying to the things that he has said by starting at the end, where he said, ‘I understand the difficulty he has.’ You dumb down the law, but the last thing you want is that they – the Spanish fishermen – still come and break our laws. So it is right to talk to the Spanish fishermen. That is what he says, right? Talk to the Spanish fishermen.

1005 Well, he knows, and so does everybody else, that we have had a technical discussion with the Spanish fishermen. We have made no secret of it. We had discussions with them through law enforcement agents. We had discussions with them ourselves. He has set out the chronology of some of them. We have had our technical people talk to their technical people. We have made absolutely no secret of it. But is he also saying – because it is of course nonsense if he is saying it... not that it has ever stopped him before – that  
1010 all of that has to be played out in the public domain? Namely, if you want to talk to the Spanish fishermen, you must say in this Parliament what you are going to say to them first.

1015 He himself has illustrated what the Spanish Foreign Ministry thought of the Agreement done in 1999. He himself *must* know – of course, not that it matters to his attempt to try and somehow in his Shakespearian dramatic way try and check the Government – that if we were to say what it is we are going to put to the Spanish fishermen and discuss with them at a technical level, the Spanish Foreign Ministry

would quickly type up the *Hansard* of these proceedings themselves and not wait for it to be published, and say to the Spanish fishermen, 'This is not acceptable'. Is he saying that every discussion that we have to have, we have to have not just openly, in the sense that we say that the meeting is taking place, but that we must let the cameras into the meeting? Mr Speaker, it is of course plainly ridiculous for him to suggest that, but that is what he is suggesting. He is saying, 'You are talking to them. You must tell me what it is you are going to talk to them about'.

Are we a little bit here in the Glyn Ford situation, because when we say a year and a half ago, look that we are not prepared to tell you what Glyn Ford is doing publicly, but we will tell you behind the Speaker's Chair and we will give you all the details of his contract? They say, 'No, no, no. We want to know on the record'. In other words, *que se entere España también*, that Spain should know too. We want to know on the record. He does not say to me, Mr Speaker, 'Fabian we spoke over the summer on Privy Council terms. Let me know what is going on with the Spanish fishermen, because you know you have my support', because that is not the reality, Mr Speaker. What he wants to do is grandstand. He wants to say, 'He is saying something to the Spanish fishermen which he does not say to us in this Parliament to the people of Gibraltar'. He is not interested in us reaching an agreement with the Spanish fishermen because he does not want to talk to me about it behind the Speaker's Chair. He wants to grandstand about it. He wants to ask questions in Parliament which are not replied to, according to him, just because we will not tell him what he thinks he is going to hear; but that is him all over, Mr Speaker, because none of this discourse is about what is good for Gibraltar. I do not think it is even about what is good for the GSD. It is about what is good for Daniel Feetham, and he thinks that this is an area which he can really plough in order to try and garner some support.

Let me now go through the things that he has said, Mr Speaker. We do not deny that there have been Spanish fishermen fishing in Gibraltar waters for generations; it is obvious that they have. There was no legislation before. These are men of the sea, who earn their living from a hand-to-mouth existence. They come and go and for them there has never been a frontier here for generations, but from 1991 there was. He recognises that. I daresay he was supportive of it in 1991, and in relation to most of our laws, Mr Speaker, there is no zero tolerance policy. So, in other words, just because *every* Spanish fisherman was not stopped, arrested, had his ship or boat pulled up on the hard between 1991 and 1996, does not mean that the GSLP Government then was ignoring its own laws, because, absolutely right, *enforcement* – and I am glad he has understood this at last – enforcement is not a matter for the Parliament; it is for the law Enforcement Agencies.

That is why I took such issue when he said to some protesters outside the Convent that if he were Chief Minister he would remove the Commissioner of Police because he was not enforcing the law of Gibraltar at sea in the Nature Protection Act. Mr Speaker, I think he denied at the time that he had said it, but we all know that he did. Enforcement is a matter for the law enforcement agencies. It was between 1991 and 1996 in relation to this law, as to all the others. It was between 1996 and 1999. It was not between 1999 and 2011 and it has been since 2011 onwards, and that is the nub of the issue: what happened in 1999?

Between 1996 and 1999, under a GSD Administration, an issue started to occur and for three years there was an issue. For two years, rumbling. For one year, a very important issue that resulted in the closure of the Frontier by the Spanish fishermen. Can I just ask the House to recall that that was just one of the two occasions when under the GSD, in that first term, the frontier was closed by the *Partido Popular* Administration? One by the Spanish fishermen – the Spanish Government did very little to unblock the Frontier at the time – and secondly on the arrival of the P & O ship *Aurora* at some stage. In fact, I cannot put my hand on my heart and say it was before 2000. It may have been during the first or second GSD Administration when the *Partido Popular* in Spain closed the Frontier... a real crisis.

So between 1997 and 1998 these things start to bubble over. The *Piraña* incident occurs. Nothing like the *Piraña* incident has occurred on this occasion. There has been no closed Frontier situation, but to hear the hon. Gentleman... forget that it is Daniel Feetham, *anyone*, Mr Speaker, describe the utter capitulation of the Chief Minister of Gibraltar to the people who illegally blocked the frontier in 1999 as one of the most intelligent moves in Gibraltar's interests that decoupled the Spanish Fishing Federation from the Spanish Government, is really to see 'capitulation' described as genius. It is absolutely ridiculous. I do not think even they believed it at the time. They might have tried to sell it as something that there was no alternative but to do, but to say that with a gun to your head you give up and do what you are being asked to do, not by the huge Government of the giant that is Spain, but by a couple of guys who burn a tyre from *La Atunara*, I mean, frankly... well, I suppose it demonstrates what sort of backbone some people have.

But I am pleased to hear him describe the 1999 fishing agreement as an agreement, because in the past two and a half years we have even heard him say that that was not really an agreement. Well, certainly, Mr Speaker, it was not something that required the Spanish fishermen to genuflect to the jurisdiction of Gibraltar and its Parliament. One is almost tempted to say, 'Look, we are not going to support the motion. Let's put it to a vote and let's just vote... you know, eight/three, and defeat this, because standing up to have to challenge these sorts of remarks is really quite difficult to do.

So people understand what the Leader of the Opposition is saying, the Spanish fishermen wanted to do (a), (b) and (c). The law of Gibraltar prohibited (a), (b) and (c). The Chief Minister of Gibraltar entered into an Agreement that the Spanish fishermen, but nobody else and certainly no Gibraltarians, could do (a), (b) and (c). The Spanish fishermen came and did, against the law of Gibraltar, in keeping with that Agreement, (a), (b) and (c). That is them genuflecting to the jurisdiction of Gibraltar and to this Parliament's rights to legislate for those waters. It is such nonsense, Mr Speaker, that it does not really bear replying to.

Somebody can say to me, 'Look, we did it. It was convenient and in the scheme of things that was better than continuing the quarrel'. That, although I do not agree with, I can accept. It is possibly the dividing line between the two parties that one might be more pragmatic, as people politely refer to that sort of capitulation, than the other. I can accept that, Mr Speaker. But to try and get the public in Gibraltar to believe that the fishing agreement, which allowed the Spanish fishermen to do the things they wanted to do and which were against the law, meant that they were genuflecting to our laws is such drivel that it should not have passed his lips, because it shows utter disrespect for the mental capability of anybody who may be listening to this debate. It is really quite incredible that we are still hearing those arguments a year and a half or two years on.

Mr Speaker, he then himself says that under the Agreement all that happened was that we went back to the stage between 1991 and 1996 of non-zero tolerance. Well, I do not know how he gets there, Mr Speaker, but he seems to be happy with the period between 1991 and 1996 when there was no agreement and when there was not zero tolerance, which is more or less really where we are now. So I do not see why it is he does not just catch me in the Ante Chamber, congratulate me and not raise these points. But anyway, it is true that in 1999, having done the Agreement, they did not move to make an amendment to Gibraltar law, because the feeling was that if they did they might be seen to be capitulating the law of Gibraltar to what Spanish fishermen were dictating.

Do you know what, Mr Speaker, although I entirely disagreed with the Agreement, I can see their point in 1999; but in 2000, 2001, 2002, 2003, 2004, *PSOE* Government already, 2005, 2006, 2007, 2008, 2009, 2010 and 2011, how can you be doing something under pressure of something that occurred in 1999 if you had done it then? It does not actually mean anything not to have changed the law if they were going to do it. But today, at least we have had an explanation of why they did not change the law between 1999 and 2011, because they were going to change it in 2012. (*Laughter*) They were ready to do it, Mr Speaker, (*Laughter*) but they lost the Election. (*Laughter*) But why did they not turn up to the meeting with the Gibraltar Federation of Sea Anglers that the PDP and the GSLP and Liberals turned up to when we were being asked our views on these issues and say, simply, 'Do not worry brothers. Oh, anglers all of us here. We are going to change the law for you in 2012'. It does mean that he is slightly lacking in credibility, even on that point.

He says that history is a great educator of men. Mr Speaker, of course history is a great educator of men and it should have taught any Gibraltarian that surrendering to Spanish pressure is not actually going to get us anywhere. It is not going to get us anywhere whether it is pressure about fishing or pressure about tobacco or pressure about a reef or pressure about Another issue, insert as you will, when there is a *Partido Popular* Government in place, usually but sometimes even under the Socialists.

Mr Speaker, because somebody in the Chamber of Commerce may have described something that we have done on this side of the House as a matter of policy and in keeping with a manifesto commitment as a rookie error, believe me, we will not be losing one moment's sleep. That description by somebody – it is in the Report – is absolutely and utterly irrelevant to the Government. We did not consider that something like that should be done – going back to the law of the land – simply as a whim. This is a manifesto commitment of this Party. If it is a rookie error, it is a rookie error of every single person that voted for this Government. We have a mandate to return to the Nature Protection Act and undo the fishing agreement. So look, the fact that someone in the Chamber has said that it is a rookie error, well, look, you know, the hon. Gentleman puts great store by it; but, so what? I would describe much of his last 18 months as Leader of the Opposition as a collection of rookie errors connected by press releases. (*Laughter*) I assume it means very little to him, so he can understand perhaps in that way how little it means to us.

Mr Speaker, if the fishermen in Spain were making common cause with the *Partido Popular* as a result of us undoing the fishing agreement of 1999, then what of every other sector? Are we to believe that any sector that disagrees with the Government of Spain is a sector that is somehow going to be in our favour all the time? I have not heard anyone in Spain recently express very clearly their view that Gibraltar should *not* be Spanish, but he seems to have persuaded himself of the Spanish argument. His whole thesis in this debate is the thesis of Margallo and the thesis of Landaluce that all of this is befalling Gibraltar. All of this, what he calls crisis and which I call just exactly the same thing that was happening between 1996 and 2003 when they were in Government, is just normal *Partido Popular* behaviour.

He fails to grasp and analyse one aspect of the historic period between 1996 and 2003, which is: what happens after the fishing agreement? Whether he describes it as genuflection that they come to fish or I describe it as a breach of the rule of law, forget that. What happens at the frontier? Exactly the same thing that was happening the day before, except that the fishermen are not blocking it? So the *Partido Popular*

Government of Spain turns the screw on Gibraltar from 1996 to 1997... or 1997 when they are elected, even with them in Government, and continues to turn the screw after the 1999 Agreement. So the idea that somehow they broke the common cause between the fishermen and the *Partido Popular* Government and somehow gave us any advantage is utterly ridiculous... *utterly* ridiculous.

And then he says that by having undone the fishing agreement, what we have done is make the Spanish fishermen tools in the hands of the *Partido Popular* Government. As if they needed a tool. As if they needed an excuse. Mr Speaker, they would have gone for tobacco. They would have gone for anything as any excuse to attack Gibraltar, but he says, in what I think he thinks is the most well thought out and best scripted attack on me that he could ever come up with, that the principal job of any Chief Minister is to keep people safe and secure and avoid anything that creates instability. That is the point, Mr Speaker. I am not a Chief Minister that will tolerate the instability that comes from the rule of law being broken and the rule of law is broken when a Chief Minister does an agreement... in fact, the rule of law is mortally wounded when a Chief Minister does an agreement that allows one sector of a group of foreign individuals to come into our territory, our undisputed land and water, and do something there which nobody else is allowed to do. Unless you enshrine that in legislation, if you do that by agreement, the rule of law is dead, and that is not just my opinion, it is clearly the opinion of anybody who has bothered to study any law.

So the instability is created by the 1999 fishing agreement. The 1999 fishing agreement does not resolve issues at the Frontier. They stayed absolutely the same. The issue of whether you could design a law as to seasons and stocks etc is something which he knows he has seen already and we were looking at, as a Government, in the technical discussions that we were having. So if he is just trying to pretend now and the future whenever it is that we decide that we may want to consider the possibility of publishing a law in this respect, that this was his idea. Look, it is very clear that it is not and it is really nonsensical to pretend that it might be. Mr Speaker, it does not follow just because we are doing that, that we would ever be in a situation where we might pursue those issues into regulation. We may wish to. We may not wish to. The answer I have given him all along when he has asked his questions is that he will find out when we do that in regulations when they are published. There will be a press release and the press release will explain what it is that the regulations do, if he does not want to bother to read the regulations themselves. That is the way things happen in an open and transparent democracy.

He comes to another point, which is to say there is now more fishing than ever before and, on top of that, they come accompanied by these Spanish Guardia Civils. Well, he cannot say there is more fishing than ever before because the fishing was not monitored between 1999 and 2011. In some instances it appears that there is less fishing than ever before. In many instances, when the Police ask them to go away, they go away without dispute – exactly as was happening between 1991 and 1996 – but I will not hold my breath to hear his congratulations.

He got the answer the other day in the House that he did not want to get when he asked me the question: how many times have fishing vessels been accompanied by Spanish State vessels for each of the following months...? I gave him the answer. He was ready to pounce and there was a zero in every column. He was left denuded of argument because the things he says are just not happening; but he gets up and gives speeches as if there were an alternative reality out there, Mr Speaker, and I hope at least his supporters enjoy them otherwise it is a complete waste of taxpayers' time.

Anyway, he went on, Mr Speaker, to deal with what is probably the low point of his career as Leader of the Opposition so far, which was when he led his bunch of merry men – one of them the backbencher, very reluctantly – out of the door of this House because he disagreed with the way that we were dealing with a particular question. This all to create the pretence, the drama, the theatre that somehow this Government is not the most accountable in Gibraltar's history.

I am reminded, Mr Speaker, just as a small parenthesis, that this is our 23rd meeting of this Parliament. We have answered in those 23 meetings thousands of questions. Mr Speaker, in the eight years between 2003 and 2011, the GSD held 20 meetings of the House. In the two-and-a-half years since our election, we have held 23. This is the non-transparent, non-open, non-accountable Government. Well, look, Mr Speaker; it is clear that the new dawn is here. He just needs to perhaps take off his sunglasses.

Mr Speaker, he goes on to say that... in that period when he said, 'I will be back after lunch. It is a walkout, but I will be back after lunch'. I mean it was not a very principled walk-out (*Laughter*) but anyway... 'I will be back after lunch and so do not do anything else until I come back'. He needs to understand that he is not the Leader of the House, and if we are lucky he never will be, and therefore the timetable of the House is not in his hands. He could have walked out, made his point if he wished to in that way – it was up to him – and then come back, because I asked that he be notified that we were moving on to the next item on the Order Paper. It is not unusual for people sometimes in some other circumstances to leave a Chamber when something is happening which they do not agree with and then come back when we move on to the next item. Sir Peter, the hon. the backbencher, did so in relation to the Civil Partnerships Bill in order – as he told us – not to have to vote against it. Very well, he came in as soon as we had finished dealing with the Bill. They could have walked out for what was left of Question Time, the four or

1200 five questions, and come back in. So the debate on the parts of the Nature Protection Act that he is trying to engineer now is the debate we should have had then and I hope this has demonstrated to him the futility of walking out of a Chamber and not staying here and defending your own position and making your own argument, *even* if you are not going to succeed in winning the vote in it.

1205 But then he attacks me, Mr Speaker, saying that I won the Election on the basis of there being a new dawn, and what kind of new dawn is it when I will not tell him exactly what it is that will happen in respect of fishing and what is our intention etc as I do not make a statement. Well, Mr Speaker, that is just absolutely pathetic. It is not necessary for me to go around telling everybody every thought that pops into my head in order to be able to make out the case that I am transparent and that I am a new dawn. It is absolute nonsense to say that I need to utter every thought that comes into my mind in order to be transparent. It is ridiculous, Mr Speaker, absolutely ridiculous.

1210 I have dealt with his penultimate point, Mr Speaker, where he told us that if I felt it was appropriate to talk to the Spanish fishermen before – as he called it – I ‘dumb down the law’, he would support me in doing that. Now that it appears he thinks I am doing it, he is trying to blow that up as he sees it by requiring that I make a statement before I even talk to anybody about it. Well, Mr Speaker, okay, I understand the hypocrisy of his position.

1215 Then he says: ‘You are hoist on the horns of your own dilemma.’ Well, Mr Speaker; I do not feel my skin pinched anywhere by any horn at all. I am perfectly relaxed with the situation that we are in and I think so is the rest of the Government and so is most of the rest of our community, despite the fact that he continues constantly to try and pick as much propellant or jet fuel and throw it onto the flames of this issue to try and keep it in the headlines. Nobody else is bringing this issue forward. Nobody else is putting this issue in the headlines, only the Leader of the Opposition and maybe one Leoncio Fernández but nobody else other than Mr Feetham is putting this issue at the forefront of public debate. So I must tell him, I feel no horns (*Laughter*) and I sense no dilemma. But for reasons that I will come to, I think I will be able to demonstrate once again, with evidence, I think I will be able therefore to prove that he is actually hoist by his own petard (*Laughter*) but I shall leave that until the end.

1220 He tells us in his final repost that at least under the 1999 fishing agreement – I have got to read this because it is worth reading – they did not tolerate our laws being broken with impunity. Mr Speaker, if anybody believes that, then it is not that in our community we do not learn from history, it is that we re-write history Mr Speaker, and that is very, very dangerous indeed. In order to ensure that we do not do that and that we remember that the 1999 fishing agreement was actually an abject capitulation of our jurisdiction and the jurisdiction of this Parliament to legislate in respect of British Gibraltar Territorial Waters and to have our legislation in those waters respected by everyone, I move an amendment to the motion.

1230 The amendment, Mr Speaker, would be to delete all the words ‘after this House’ and insert the following language – (*Interjections and laughter*) in the best traditions of Parliamentary practice in Gibraltar (*Laughter*) – and insert the following language: ‘THIS HOUSE’ would stay. The following would read:

1240 ‘CONDEMNS the so-called fishing agreement entered into in 1999 between the then Government and a group of Spanish fishermen as contrary to the rule of law in its selective application of the law to some, but not to others;’

**A Member:** Hear, hear, hear. (*Banging on desks*).

1245 **Hon. Chief Minister:** Thank you, rent a mob. (*Laughter*) Your cheque is in the post. (*Laughter*)

‘BELIEVES that the 1999 fishing agreement purported to override the law of Gibraltar by setting out to regulate fishing in certain numbers, in certain locations, at certain distances and with certain methods even though this remained prohibited in law;

1250 TAKES NOTE of the excellent report entitled ‘The Management of Marine Living Resources in the Waters Around Gibraltar’ which was commissioned by the Government and published in December 2012;

CONSIDERS that the regulation of fishing and diving in British Gibraltar Territorial Waters must be handled in a sensible and responsible manner;

1255 THEREFORE WELCOMES the policy of the Government to engage in a process of consultation with many different stakeholders in relation to fishing and diving in British Gibraltar Territorial Waters and the announcement that Regulations are due to be published shortly by the Ministry for the Environment to start the process of regulating use of the marine environment;

AND REAFFIRMS the unquestionable British sovereignty, jurisdiction and control of the waters around Gibraltar as set out in the United Nations Convention on the Law of the Sea and the uninhibited right of the Parliament of Gibraltar to legislate in those waters as set out in the Gibraltar Constitution.’

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I move that amendment, Mr Speaker, and with your leave I would ask to be allowed to speak on it.  
(*Banging on desks*)

**Mr Speaker:** I am sure the hon. Members know what the position is now.

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This is the Chief Minister's amendment. Hon. Members may speak to this amendment, including the Leader of the Opposition, right, but what hon. Members cannot do is to speak on this amendment... or rather speak on the motion of the Leader of the Opposition under this amendment. You cannot do both, okay?

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**Hon. Chief Minister:** So, Mr Speaker, on the amendment, the Foreign Affairs Committee of the Westminster Parliament has long been an ally of the people of Gibraltar. When the people of Gibraltar have faced, for example, the joint sovereignty debacle of the British Government in 2002, the Foreign Affairs Committee of the British Parliament was on the side of the people of Gibraltar. It took evidence from the then Chief Minister and the Leader of the Opposition and they made clear in their report that it was wrong for the British Government to go down the purported joint sovereignty route.

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In its Fourth Report, Mr Speaker, the Foreign Affairs Committee had this to say about the fishing agreement. This was in the same year, Mr Speaker. They had said it was sensible to talk to the fishermen. They had said it was sensible to try and reach an accommodation, but they said this, Mr Speaker, paragraph 25 of the Fourth Report:

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'There is one important constitutional point to be made in the context of the fishing dispute. The Commissioner of the Royal Gibraltar Police has operational responsibility for the RGP and "exercises normal policing discretion when taking decisions on operational matters, on the same lines as Chief Constables in the United Kingdom." Whatever agreement there may be between the British and Spanish Governments, or between Mr Caruana and the fishermen, it is for the Commissioner to decide how to enforce the law. It is wrong to place a Chief Officer in a position where he is asked to enforce the law in a way which is politically expedient. Ms Quin told the House that the Government hoped'

– and this is the Government of the United Kingdom, who Ms Quin represented from the Foreign Office –

'that the agreement'

1285

– the fishing agreement –

'would be "backed up by legislation in the Gibraltar Assembly." We agree. We understand Mr Caruana's concern that amending the law might appear to be capitulation to Spanish pressure, but we do not believe that this is the case. We hope that the Government of Gibraltar will seek to amend the Nature Protection Ordinance so that the informal understanding about the extent to which it is not to be enforced is given proper legal effect.'

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And yet, despite that, in 2000, in 2001, in 2002, in 2003, in 2004, in 2005, in 2006, 2007, 2008, 2009, in 2010 and in 2011 they did nothing about it, having been told, not by Fabian Picardo, not by Joshua Gabay who did a sterling job in this House after the agreement, for the GSLP in Opposition, setting this issue out repeatedly, meeting after meeting, more eloquently than I ever could, but by the Foreign Affairs Committee of the United Kingdom Government... not that one is better than the other, but they are not the Opposition to the GSD as Joshua was in 1999, but I guess that is because they were going to do it in 2012, Mr Speaker.

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But if that were not enough, if the opinion of Joshua Gabay were not enough to convince Peter Caruana, if the opinion of the Foreign Affairs Committee that most times comes down on Gibraltar's side and I will say most because I have not read *all* of their reports and they might at some stage have said something we did not like, but if that were not enough, let me come to one more point, because the Hon. the Leader of the Opposition, Mr Feetham, has made the point that there was no breach of the rule of law, that all of these issues were not of great concern and that we should have stuck with the 1999 fishing agreement. If Joshua Gabay cannot persuade him, if the Foreign Affairs Committee cannot persuade him, if Fabian Picardo cannot persuade him, let me try Daniel Feetham.

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Mr Speaker, this is a press release issued by Daniel Feetham in 2003, in September:

'Chief Minister caught in crab controversy'

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– I will allow him, Mr Speaker – if that was his headline on Panorama – at least a smirk because it is quite a funny headline. It could have meant anything, Mr Speaker, the Chief Minister caught in crab controversy –

‘Complaints are being received from both local amateur scuba divers and people concerned with nature conservation about the considerable amount of Spanish fishermen who are catching spider crabs (known in Spanish as *Centollo*) which is a protected species under the Nature Protection Ordinance.

It appears that these crabs are being taken to Spain to be sold there and when spotted by the RGP nothing is done to stop them.’

1310 – I assume that the error in syntax was an intention to refer to the fishermen taking them and not the arrest of the spider crab, as appears to be suggested by the sentence –

‘In the meantime when Gibraltarians are caught doing this they are arrested and subsequently charged for the offence. “We are also informed that the Chief Minister has received complaints about this but thus far, nothing has been done to tackle the issue”, says the Labour party.

The party adds: It will be recalled that the Government resolved the Spanish fishermen’s dispute by entering into a private agreement allowing them to fish in Gibraltar waters and, in particular, in areas designated a Marine Nature Area under section 18(2) of the Nature Protection Ordinance. *Esta muy bien. La verdad es que no escribe muy bien a menudo, pero esto esta muy bien.*

Marine Nature Areas are territorial waters designated as areas of special interest for the purposes of conserving marine flora or fauna and providing special opportunities for the study of, and research into, matters relating to marine flora and fauna. These areas are, therefore, of tremendous importance to Gibraltar’s marine wildlife and to the research carried on in them.

The party believes that both Gibraltarians and foreigners alike should respect Marine Nature Areas “and we also believe that protected species under the Ordinance should likewise be protected”.

It is a matter of great regret that our protected wildlife and our protected areas are pillaged in this way without respect. It is likewise a matter of great regret that Gibraltarians cannot expect equal treatment of the law in their own homeland. No doubt the RGP would be applying the law equally among locals and Spaniards if it had not been for the agreement reached as a consequence of the fishermen’s dispute.

“We do our society, underpinned as it is by the rule of law, a great disservice when we turn a blind eye to breaches of our laws and that disservice is compounded when the full force of our laws are applied only in respect of local youths and not foreigners,” says the party, which calls on the Chief Minister to ensure that the law is applied equally among everyone and above all, that our Nature Conservation laws are upheld.’

1315 Mr Speaker, if nothing that Fabian Picardo has said has convinced the Hon. Daniel Feetham, I hope Daniel Feetham has. (*Applause and banging on desks and laughter*)

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

1320 **Hon. D A Feetham:** Mr Speaker, I am totally in your hands as to whether you wish me to respond, as indeed I would wish to, to the Chief Minister in reply to my motion or to reply to his first... in other words, the amendments, because I have not responded yet.

**Mr Speaker:** You are able now to speak on the Chief Minister’s amendment.

1325 Having done that, if the House then votes on the amendment and passes the amendment, then that becomes the motion before the House, at which stage you will have your right to reply. At the end of the debate you will have your right to reply.

**Hon. D A Feetham:** Yes, Mr Speaker, as long as I have my right to reply on *my* motion.

1330 **Mr Speaker:** No, your motion will have been amend... if your motion is amended, then this becomes the motion before the House, but you do not lose your right to reply to what has been said. Is that clear? The likelihood is, because your motion and the Chief Minister’s amendment in a way overlap each other, I will be able to interpret the rules of debate very liberally in allowing you to exercise your right to reply.

1335 **Hon. D A Feetham:** Mr Speaker, yes, of course. But normally in this kind of situation, as it is my motion, I have the last word (**Mr Speaker:** Yes.) but what we have here... as long as I have the last word, that is all I am interested in, Mr Speaker.

1340 **Mr Speaker:** You will have the last word. (*Laughter*) The only thing is that it is not likely to be on the original motion. If I can count the heads, which I think I can, it is likely to be on the Chief Minister’s amendment. That is all, but you will have your right to reply.

**Hon. D A Feetham:** Well, Mr Speaker, then let me deal with the –

1345 **Mr Speaker:** What you cannot do is both. You cannot now answer everything that the Chief Minister has said with this motion and then repeat the process and go over the same ground again. Do you follow? You cannot then repeat yourself. (*Interjections*)

1350 **Hon. D A Feetham:** Mr Speaker, of course, I cannot repeat myself and neither can he. No, I accept that.

**Mr Speaker:** Right.

1355 **Hon. D A Feetham:** Yes. Well, Mr Speaker, let me just deal with the last point which is the Chief Minister reading what was, I have to say, an excellent press release by the Labour Party in 2003. (**Members:** Hear, hear.) (*Banging on desks*) Absolutely, Mr Speaker – (*Interjections*) An excellent, excellent, excellent press release of which I do not resent one bit Mr Speaker, because of course what that press release was directing itself to – and indeed, it was not drafted by me, but it was drafted by a very competent colleague in my team at the time – was the fact that there were Spanish fishermen... divers, in this case, not fishermen – divers that were coming into British Gibraltar Territorial Waters and lifting a protected species such as the *Centollo* and basically then taking it to Spain; whereas Gibraltarians were being arrested, or being cautioned for exactly the same offence, and that is wrong.

1360 But, Mr Speaker, actually that has absolutely nothing to do with the 1999 Agreement. It has something... it is very relevant and has something to do with the Nature Protection Act, because it is the Nature Protection Act that essentially deals with the protection of these kinds of species in British Gibraltar Territorial Waters. The 1999 Agreement had nothing to do at all with *Centollos*. Nothing whatsoever at all with *Centollos*.

1370 So, Mr Speaker, there is absolutely no contradiction at all in the position that I am taking now with the position that I was taking then, and even if there were, even if there were, Mr Speaker, the reality of the situation is that the 1999 Agreement – as he has also recognised in his own address – was a good diplomatic solution to a very difficult problem that existed in 1999, that we could have changed the law later. I have already said that I accept criticism in relation to that, but it does not, Mr Speaker, deal with the main thrust of my criticisms to the hon. Gentleman today, which has been the way and the manner in which he personally has handled the tearing up of the 1999 Agreement without having anything to take its place.

1375 Mr Speaker, turning to the other parts of his intervention, I have to say, Mr Speaker, that it is as poor a response and intervention as I have seen the Chief Minister provide in this Parliament. Mr Speaker, but let me start by giving him a very small, historical lesson.

1380 He said, Mr Speaker, that it had been Margaret Thatcher that had said that it was as being mauled by a sheep. He has actually got it wrong on two counts. First of all, it was not Margaret Thatcher. It was Denis Healy about Geoffrey Howe, and the quote was it was 'like being savaged by a dead sheep'. Well, Mr Speaker, I have been called the black sheep, politically, many times by the hon. Gentleman opposite, but never a dead one and never one without teeth, and if he knows something about me by now, he should know that my teeth are particularly sharp indeed. But, Mr Speaker, he then says that it was a Glyn Ford moment. Well, Mr Speaker, I think that his intervention today shows that he is having one of many of his 'Clinton' moments.

1385 Mr Speaker, he says, 'I am not answerable... we are not answerable for our thoughts or everything that we are thinking', but it certainly appears, Mr Speaker, that he believes that he is answerable to the Spanish fishermen, because he is prepared to explain his thoughts to Spanish fishermen and to people across the border, the very same people he describes in his address as 'foreigners', but he is not prepared to share those thoughts with the people of Gibraltar and with Members of Parliament in this Parliament. That is the essence of my criticisms of the hon. Gentleman. He can talk about or he can call that criticism nonsense, or he can call my address nonsense. He calls it drivel. He then says that I am siding – which has become a favourite of the hon. Gentleman – I am siding with Margallo because he is just simply repeating the thesis of Margallo. Well, Mr Speaker, that is increasingly becoming a shield, a shield to the hon. Gentleman to shield him from the incompetence – it has to be said – that he has shown, in relation to dealing with this particular issue.

1395 The reality is that criticism of the Government is not criticism of Gibraltar. Criticism of the way that the Government has handled this particular issue is not being unpatriotic or a bad Gibraltarian or siding with anybody else, the reality is that the GSD has a different way of dealing with things, Mr Speaker. As I have said before, a calm, mature, intelligent way of dealing with things. All the qualities, Mr Speaker, that unfortunately the hon. Gentleman lacks in the way that he attempts to bulldoze these issues without any measure of intelligence and sometimes a thought.

1400 Mr Speaker, he said he goes from nonsense... he says that it is nonsense to expect us to provide him with the information publicly because, he says that the Spanish fishermen... sorry, he says that the Spanish Foreign Ministry would find out. That is absolutely a nonsensical argument, Mr Speaker. Does he not think that the Spanish Foreign Secretary has not been informed by the Spanish fishermen exactly what the

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proposals are and exactly what that discussion paper that he has given Spanish fishermen entails? Does he not think that? Does he think that the people of Gibraltar are so stupid as to believe that kind of argument?

Mr Speaker, he does not give the people of Gibraltar the credit for the intelligence that no doubt they have and the sophistication that time and time again they have shown in successive elections and indeed in the way that they express opinions on this matter.

Mr Speaker, he then repeats another point that he is very fond of making, and he says that I have said that I would like to see the Commissioner of Police removed and that everybody knows that I would like to see the Commissioner of Police removed. Well, Mr Speaker, I challenge him to produce the evidence of where I have said that I want the Commissioner of Police removed, because it is false, and I am telling him that it is false, as I have told him in the past. He must make himself responsible, Mr Speaker, for statements that he makes within this House. What he cannot do is just simply invent stories of this nature, because they are very serious indeed. I have told them I did not say it and yet, Mr Speaker, he continues to repeat it.

He then says – (*Interjection*) well, the 1999 Agreement, he says... I beg your pardon, he said... Well, he has never asked me to brief him on these issues on a confidential basis. Mr Speaker, I remind the hon. Gentleman that we gave him nearly two months grace where we kept quiet to give him the space to deal with the issue post the laying of the blocks, and we got criticised, *criticised* by a section of the press for effectively suspending political activities during that period of time because we wanted to give the hon. Gentleman the political space to deal with these issues. And yet, when we resumed political activities, any private briefings actually ceased and what the hon. Gentleman must realise and what ...as a democrat he must realise, that what we cannot have is a situation, Mr Speaker, where private briefings from the Chief Ministers are dependent on us just simply rolling over and not doing our job.

He is the Chief Minister of Gibraltar. He is in possession of this information and it is incumbent on him to pick up the telephone and to say, 'Look, come to my office. I am going to brief you on X, Y and Z', if that is relevant; but, Mr Speaker, he has not done so.

Mr Speaker, he also said that it is the duty of all Chief Ministers to prevent foreigners coming to our land and breach our laws. He mentioned an alternative reality as well during the course of his address, and I just wonder whether it is the hon. Gentleman who lives in some form of alternative reality. Mr Speaker, there are Spanish fishermen coming into British Gibraltar Waters, fishing with nets with impunity. Does he think that he is exercising his duty as Chief Minister preventing foreigners from coming into our land or our waters to prevent breaches of our laws, because it is not doing that? If he thinks that he is doing it, then it is him that lives in an alternative reality, not us.

Mr Speaker, he also said that the backbencher was reluctant to leave during the... when there was a walkout on the Credit Finance issue and he has repeated that in the past and he has repeated it outside. His supporters repeat the fact that I am doing Margallo's job etc, as they repeat most of what he says, but, Mr Speaker, the backbencher has said publicly in this House that he walked out of his own volition and that indeed if the situation persisted that he would have no hesitation at all in walking out again, because it was so serious that it merited walking out. No amount of distortion or the hon. Gentleman saying otherwise will change that very simple fact, Mr Speaker.

Mr Speaker, finally, just in my reply, returning to this question of the thesis of Margallo, I know that the hon. Gentleman likes to repeat it often that I am somehow doing Margallo's dirty work. I have now read in a section of the Spanish media that I believe to be sponsored with advertising by the Gibraltar Government, that somehow I have very high-level connections with the PP Government in Madrid and that the PP Government in Madrid would prefer me to him as Chief Minister of Gibraltar and that there is somehow a conspiracy between myself and Rajoy. Well, look, I wish, Mr Speaker, that I would have the influence to be able to influence Rajoy. I would tell him that his policy in relation to Gibraltar is counter-productive not only in Gibraltar, but also amongst his own people across the frontier in La Linea because it is harming them more than it is harming us, Mr Speaker. But, look, alas, it is not possible. I do not have that influence.

Mr Speaker, I love this community as much as anybody else in this Chamber. I have dedicated the last 15 years of my life; indeed, I came to Gibraltar in order to pursue a career in politics in order to defend the interests of my community. There is nothing more of an anathema to me than any suggestion that I am doing the dirty work for anybody across the frontier in Spain, least of all the PP Government in Madrid Mr Speaker.

But we have our way of doing things. There is a GSD way of doing things and simply because we say so – (*Laughter*) Simply because we repeat that and simply because we criticise the Government for doing things in a way that we do not agree with, does not mean that anybody on this side of the House, Mr Speaker, is a bad Gibraltarian, anti-Gibraltarian, or that, Mr Speaker, we do not love this community. Nothing could be further from the truth. He does a huge disservice to politics in Gibraltar to suggest otherwise. (*Banging on desks*)

**Mr Speaker:** Does any other hon. Member wish to speak on the Chief Minister's amendment?  
The Hon. Dr John Cortes.

**Hon. Dr J E Cortes:** Mr Speaker, unlike the Leader of the Opposition, who has strayed from talking on the amendment to responding to the Chief Minister's response to his own, as proposer, I intend to do my utmost to stick to the amendment.

1470 My, my, my, Mr Speaker, I was accused earlier on of singing my praises when I was speaking about the Alameda Gardens and now we have heard the Leader of the Opposition singing his praises about his work as a Minister in 15 years. The difference, Mr Speaker, is that he was 15 years in politics, I was for 20 years *el jardinero*. Mr Speaker, as a rookie, indeed, I must also point out that I already have more Parliamentary experience than any two-term GSD Minister.

1475 Mr Speaker, on the actual amendment, I think that what we have to remind ourselves, despite those who say otherwise, is that the fishing agreement, which was then known as a joint understanding, is in fact contrary, or was in fact contrary to the rule of law. Mr Speaker, it was worded so as to appear not to be against the rule of law, but against the rule of law it certainly was.

1480 Mr Speaker, in the preamble to the agreement, it stated equally that the fishing sector undertakes to respect the instructions of the Police Authorities of Gibraltar in their enforcement of that law. Mr Speaker, they did not... firstly, because they did not; and secondly, because they rarely got any instructions anyway.

Mr Speaker, it also makes a statement like, 'as a consequence both sides understand that there should be a return to the *status quo* which existed in the period 1991 to the start of 1997 and that thus the law will be applied with the same level of tolerance as during that period'. It was not applied at all.

1485 Mr Speaker, perhaps most significantly are the following words in the annex:

'After having discussed in detail what a return to the *status quo* and therefore to the 1991 – 1997 situation is, both sides understand that the law will be applied strictly in the following circumstances...'

1490 And therefore, Mr Speaker, by implication, that it would *not* be applied in other circumstances. Therefore, the distance from the coast of 225 metres, it would not be applied strictly outside them. The number of fishing boats: no more than four. It would not be applied if there were less and in this respect *luceros* are not considered boats actually fishing. That actually goes completely against an actual specific mention of *luceros* in the law.

1495 Therefore, Mr Speaker, although it was worded in such a way as to try to pull the wool over the eyes of the community by having a pretence that this was not in breach of the law, it most clearly was in breach of the law and therefore I think Gibraltar has to realise and I have no option but totally to support the amendment. (*Banging on desks*)

**Mr Speaker:** Is there any other contributor?

1500 In that case, I will call upon the Chief Minister to exercise his right to reply on the amendment. The Chief Minister will not be able to speak again, unless there were to be an amendment to the amendment.

**Hon. Chief Minister:** Or somebody gave way to him.

**Mr Speaker:** Yes.

1505 **Hon. Chief Minister:** Mr Speaker, thank you very much for the opportunity now to reply on the comments that the hon. Gentleman has made about the amendment, but the hon. Gentleman has said very little about the amendment when he got up to reply to the amendment, so I am going to reply to the things that he has said.

1510 **Hon. D A Feetham:** Well, Mr Speaker, that –

**A Member:** [*Inaudible*]

1515 **Hon. Chief Minister:** Well, yes, because you were only allowed to speak on the amendment and you spoke about everything, and therefore I am allowed to reply to what you have said.

1520 Mr Speaker, let me start by saying that it was absolutely clear that the hon. Gentleman, faced with this amendment and faced with the logic of what I had said, had nothing to say. So I will take his words, that this was from me as poor a response as he has ever seen, as actually a great compliment because what he means – and of course he always says the opposite of what he means – is, 'Oh, my goodness. That was a total methodical destruction of everything I, Daniel Feetham, said. I am left with nothing I can say to confront your amendment because the arguments which I put will obviously be clearly contradictory to the press release that I issued in 2003'. Of which he says, Mr Speaker, 'It was an excellent press release of the Labour Party, not drafted by me, but had absolutely nothing to do with the 1999 Agreement. It was all about diving'.

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Mr Speaker, this is not a man on the horns of a dilemma. This is a man wriggling on a hook, a hook of his own making, and he has just made the hook sink deeper into his mouth. He has said here, within living memory of all our minds, a moment ago, that this press release had nothing to do with the 1999 Agreement. Let me relish reading that part again. (*Laughter*)

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“The party says that it believes that both Gibraltarians and foreigners alike should respect Marine Nature Areas "and we also believe that protected species under the Ordinance should likewise be protected”.

It is a matter of great regret that our protected wildlife and our protected areas are pillaged in this way without respect. It is likewise a matter of great regret that Gibraltarians cannot expect equal treatment of the law in their own land. No doubt the RGP would be applying the law equally among locals and Spaniards if it had not been for the agreement reached as a consequence of the fishermen’s dispute.

“We do our society, underpinned as it is by the rule of law, a great disservice when we turn a blind eye to breaches of our laws and that disservice is compounded when the full force of our laws are applied only in respect of local youths and not foreigners," says the party, which calls on the Chief Minister to ensure that the law is applied equally among everyone and above all, that our Nature Conservation laws are upheld.’

It is a clear reference to the 1999 Agreement. Mr Speaker, does he think that absolutely everyone is stupid except him? At least, Mr Speaker, he is enough of a parrot that when I say in my intervention, ‘You must respect the electorate. You must not treat them like fools’ the next thing that he does is get up and say, ‘You must respect the electorate. You must not treat them like fools’. But then, Mr Speaker, he goes on to treat not just the electorate, but everybody watching, everybody sitting here, everybody in the gallery and yourself, with all due respect, Mr Speaker, as an absolute fool by telling us that his press release, which I have just read out again, had absolutely nothing to do with the 1999 Agreement. So we can judge his credibility on that simple basis; but not that that had anything to do with the amendment... but anyway.

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Mr Speaker, he says that I recognised that the 1999 Agreement was a good thing diplomatically. Now, Mr Speaker, let us be very clear. I read him a part of the Foreign Affairs Committee Report which said something like that. That is not my position. That is the position of the Foreign Affairs Committee in its Fourth Report. So please can the easy device of him pretending that something I read from somebody else which I have expressly said I do not agree with, which he tries to impute to me, be clear does not actually work.

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Mr Speaker, he says that he has sharp teeth. Well, look, that is really a matter entirely for him. I have no need to know much about his dentures (*Laughter*) to understand that what he is promoting is an agreement that is contrary to the rule of law.

When I refer to a Glyn Ford moment, I am referring to the fact that they asked question about Glyn Ford. We offered them the information privately and they said no; but a year and a half later they have now said they would like the information privately. It is quite something, Mr Speaker, for him to say, as he likes to do repeatedly, that I have Bill Clinton moments. Well, you know what, Mr Speaker, Bill Clinton is famous for having denied adultery when he committed it and that, Mr Speaker, is a little bit close to the bone and perhaps we should not be going there. We should not be accusing each other of those sorts of moments because there is really quite no need to do that.

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He says, Mr Speaker, that he is cleverer than me and that he is much better at what he does politically than I do. If that was not the import of him saying how terribly I am doing it and how well he was doing it, well, Mr Speaker, look, I do not consider myself cleverer than anyone. I have been elected to do this job for as long as the people of Gibraltar want me to do it. They will decide at the next opportunity whether or not that is the case and they will decide whether he should continue as Leader of the Opposition or otherwise. What is the point in a debate of saying, ‘I am cleverer than you and I am better than you. Ya boo sucks’. I thought we had got beyond that when we left primary school.

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Of course it is clear to the Government, Mr Speaker, that by now the Spanish Foreign Ministry is fully aware of all the things that have been discussed, even at a technical level between Gibraltar technicians and Spanish fishermen; it was not always thus. But he was putting the issue on the public agenda. He was trying to draw us out on the subject. He *is* the person, Mr Speaker, repeatedly putting the issue back in the public domain with questions and with press releases and now with this motion. He wants to, Mr Speaker, because you see the reality is that Mr Feetham does not want us to resolve the issue that there may be with Spanish fishermen. He wants it to continue and endure, even if it damages Gibraltar, simply to try and make a cheap electoral point of it – that is the point – and if in doing so he plays into Mr Landaluce’s hands and into Mr Margallo’s hands, then he does not care a jot. That is why, however proud a Gibraltarian he may be, however much he says that he loves Gibraltar, he is always going to have to face from me the accusation that for his own selfish ends he pursues this issue of fishing and plays into the hands of those who would do our community the greatest damage. He needs to understand that, so that when he continues doing it, he does not have the excuse that he did not see that.

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But having said that Mr Speaker, given the extraordinary things that he has said, even denying the fact that his press release was speaking about the 1999 Agreement, when it clearly was, I have no doubt that

1580 either because he cannot see it or because he will not see it, he will continue to do whatever he thinks is in his expedient interest in order to try and win Office. Which brings me, Mr Speaker, to the great sacrifice that he made by coming back to Gibraltar to defend it.

1585 It is abundantly clear to everyone, Mr Speaker, that the hon. Gentleman came back to Gibraltar when he came back to Gibraltar for whatever reason he might *really* have wanted to come back to Gibraltar, but principally to become Chief Minister of this community. This is his obvious lifetime ambition and he wears it so much on his sleeve that they should embroider it on all his suits, Mr Speaker. (*Laughter*) This man does not think that he has a date with destiny; this man thinks he is married to destiny, Mr Speaker. (*Laughter*) Whether it is 15 years ago or 10 years ago or whenever it was, Mr Speaker, one thing is very clear. When he came back from the United Kingdom... God knows why he did, but when he came back from the United Kingdom, it was because there was and there is a GSD way of doing things and he wanted that to stop. (**Hon. J J Bossano:** Absolutely.) He came back to Gibraltar at that time to offer his service to remove the GSD from Office (**Hon. J J Bossano:** Yes.) and rebuffed he has done now everything possible to keep them there and now bring them back.

1590 If Mr Speaker, he were to change the GSD and its policies were to reflect those of the GSLP on every aspect, then maybe, *maybe* he might be forgiven, but on present showing, given that he is defending the GSD way of doing things, which he was so against, I think it says much more about him than it does about the GSLP way of doing things. Mr Speaker, the GSLP way of doing things is the way of doing things that people have selected in this community to govern. Therefore, condemning the fishing agreement, which the GSD did, is absolutely right. Believing that the agreement was wrong is absolutely right. Taking note of the expert report is what we must do. Considering the regulation of fishing in British Territorial Waters a matter for this Parliament is what we must do. Welcoming the way this Government is trying to ensure that that is done in consultation with stakeholders is what we must do and reaffirming the unquestionable sovereignty of this Parliament over the land and sea of Gibraltar is exactly the *right way* of doing things. There could be no other way... the GSLP, now also Liberal, way of doing things.

I therefore, Mr Speaker, commend the motion to the House as amended. (*Banging on desks*)

1605 **Hon. D A Feetham:** Mr Speaker, may I propose an amendment to the motion... to the amended motion?

**Mr Speaker:** You have already spoken on the amendment. You cannot put an amendment to the motion. Some other Member of the Opposition can do so, but you cannot.

1610 **Hon. Chief Minister:** But not at this stage, Mr Speaker.

Procedurally, Mr Speaker, if I may, at this stage I have spoken on the amendment. We have to now vote on the amendment. Once we have voted on the amendment –

1615 **Mr Speaker:** We have to vote on the amendment and then –

**Hon. Chief Minister:** After that you can do it.

**Mr Speaker:** – then after that –

1620 **Hon. Chief Minister:** – you can propose an amendment to the amended motion.

1625 **Mr Speaker:** We now have to vote on the amendment and then the amended motion is before the House. You will not be able to put an amendment, but you will have a right to reply. One of your colleagues can move an amendment, okay?

So I now put to the House, the amendment moved by the Chief Minister in terms of the amendment which has been circulated and which I am sure Members will not wish me to read out. Those in favour? (**Members:** Aye.) Those against? (**Hon. D A Feetham:** Against.)

1630 The amendment is carried by a Government majority and therefore the motion now before the House is as amended and, as I say, the Hon. the Leader of the Opposition is not able to speak on this motion. He has a right to reply.

The Chief Minister is not able to speak on the motion. The Hon. Mr Cortes will have to be very careful because he has, to all intents and purposes, done so; but he did not speak on a number of other paragraphs and he could, if he so wished.

1635 All other Members on the Government benches and on the Opposition benches can speak on the motion as amended.

1640 **Hon. Chief Minister:** Mr Speaker, can I just... I need to absent myself from the Chamber for a minute. I mean no disrespect to whoever speaks next and I will be listening in the Ante Chamber, but I must make a phone call.

**Mr Speaker:** That means, as I say, hon. Members of the Opposition, who would be the ones normally interested, can move an amendment to the motion.

1645 **Hon. D A Feetham:** Do I have a right to reply?

**Mr Speaker:** The Hon. the Leader of the Opposition has a right to reply at the end of it all. Before we take a vote... you see, oddly enough what happens is that the motion, as amended, becomes your motion (*Laughter*) according to the Rules of the House and that is why you have the right to reply. (*Laughter*)

**Hon. D A Feetham:** So, Mr Speaker –

1655 **Mr Speaker:** I should not have put it the way I have, but you know what I mean. (*Laughter and interjections*)

1660 **Hon. D A Feetham:** Mr Speaker, I am not sure that I do so. Essentially I have no right to expect answers from the Government to my questions and also his amendments become my motion. (*Laughing*) I am not sure if that is exactly the correct position, but I accept that the order... I have the right to speak at the very end.

**Mr Speaker:** The last person to be able –

1665 **Hon D A Feetham:** Which was what I was concerned about, Mr Speaker.

**Mr Speaker:** Yes, that is the position. Does any hon. Member wish to speak on the motion, as amended? (*Interjection*)

**Several Members:** Hear, hear. (*Banging on desks*)

1670 **Hon. J J Bossano:** Mr Speaker, the GSD way and the GSLP way are like chalk and cheese in almost every respect, but there is in one particular respect, which is very relevant to this motion and to the way the Member opposite behaves nowadays when he is so proud of the GSD way which he condemned in 1996, in 2000 and in 2003. That is, when it comes to taking sides in issues where the Government of Gibraltar is in conflict with the Kingdom of Spain.

1675 So in 1996 the situation that was inherited by the GSD was that the 1991 Nature Protection Ordinance was in place and that was not in place in order to stop fishermen from Spain fishing because we do not like Spaniards in our water; it was there to protect the fish from fishermen of any nationality. The only relevance that the Spaniards were involved is in fact that everywhere else that they had been fishing they had wiped the place clean, from Norway to the North Sea in the United Kingdom. Indeed Greenland left the EU rather than allow the Spaniards to fish there! They actually negotiated their exit because one of the conditions demanded by the Spaniards was that they should be able to wipe out all the fish from Greenland's Territorial Sea, having exhausted almost every other possibility.

1680 So the purpose of the exercise was to retain fish in our waters before they wipe them all clean. And of course to the degree that we were able to influence with the constitutional arrangements that existed there, the involvement of the Police in doing the job we did, and when they could they did and when they could not, they did not. So the reality was it was not that it was a non-zero tolerance; it was that on some occasions they were able to do something about it and on others they did not.

1685 When the situation developed after 1996 and the conflict came about with Spain, what we did not do, because we did not believe in the GSD way and we did not know about the GSD way because we had not been with a GSD in power before then, what we did not do in Opposition, was to say to Mr Caruana, 'You have created the problem with Spain. By having the ship arrested, you are responsible for the blockade on the frontier by having done this because unlike the measured well thought-out supposed GSD way we are having described now, that is not what happened then.

1690 They did not do a measured, well thought-out process where they knew what was going to happen. They arrested a ship – which they were perfectly entitled to do, which we fully supported – and then the Spanish fishermen blockaded our frontier illegally and we did not blame the Government of Gibraltar for the blockade by the Spanish fishermen because that was not the GSLP way. The GSLP way was to say we do

not agree with Mr Caruana and we do not agree with the GSD but if the Spaniards attack the Chief Minister of Gibraltar, we defend him. That was the GSLP way. (**Several Members:** Hear, hear.) (*Banging on desks*)

1700 And whenever anybody interviewed me in Spain and attempted to draw me out in criticising the policies of the GSD, however much disgust I held for the GSD way of doing things – which I did (*Laughter*) and I still do (*Laughter*) – I would say to them in Spain, I am not here to talk about the Government of Gibraltar in a foreign country. What I do is that whatever I have to say to Mr Caruana, I will say to his face and in our Parliament. So as far as I am concerned, I am not prepared to be drawn on any passing of judgement on any  
1705 policy of the Government of Gibraltar.

We criticised Mr Caruana for dropping his trousers and giving in when the Spaniards blockaded the frontier. We did not criticise him and say to him you brought this on yourself by doing what you did. So if we are talking about the equivalent of putting blocks of concrete, if it had been the GSD way of doing things, in the case of the position that existed in 1999 what we would have done was say, ‘Well look, first  
1710 of all you provoked the crisis. The crisis has not been provoked by the Spaniards. It is not the fault of the PP. It is the fault of the fact that you do not do things without looking ahead and knowing what is going to hit you, and now when it hits you, you finish up capitulating it and you finish up with egg on your face.’

Because that is what actually happened – but we did not say it. We attacked the Spaniards for blocking it and we did not support the Government for doing the agreement in order to lift the blockade, although we  
1715 understand the pressure they were under.

We had a situation where people were around No. 6 Convent Place blockading it, because they did not agree that there should be Spaniards inside negotiating with the Government of Gibraltar and the guys outside did not know what was going on. What did the Police do? They arrested some of the people outside and protected the Spanish fishermen all the way back to the frontier! The GSD way, of which he is so  
1720 proud.

Well, he was not proud in those days. His values were different in those days. I am sorry that he has given up those values, which we still have and which have been part of our history and our tradition on the left. So as far as I am concerned, we do not go round condemning things unless we are provoked into condemning them and he has actually made it necessary for us to go along the route of condemning what  
1725 was there before, because he is trying to put a situation which is in fact *misrepresenting* what took place.

Of course Mr Caruana, on more than one occasion, it happened with a numbering plan on the telephone system, when he said in this Parliament, ‘Well look, if there are three parties in a negotiation and somebody has got to drop his trousers, who do you think is going to do the dropping of the trousers – the Spaniards, the Foreign Office or Gibraltar? The weakest of the...’ Well look, you might as well stop wearing trousers  
1730 if you are going to be dropping them all the time! (*Laughter and banging on desks*)

So the answer is that having known the Member opposite in short pants, as he often remembers, I hope I do not see him with no pants, now that he is supporting the GSD way.

1735 **Several Members:** Hear, hear! (*Banging on desks*)

**Mr Speaker:** Is there any other contributor to this debate?

If there is not, I will call on the mover – that is the Leader of the Opposition to reply – and then that is the end of the whole show.

1740 **Hon. D A Feetham:** Well, Mr Speaker, thank you very much for allowing me –

**Mr Speaker:** No, no, I do not allow you. (**Hon. D A Feetham:** It is the rules that allow me, absolutely.) It is the Rules that allow you and my job is to apply the Rules, which I do to the best of my ability.

1745 **Hon. D A Feetham:** Thank you very much for giving me the opportunity pursuant to the rules of replying to what has been quite an entertaining debate. (*Laughter*)

But Mr Speaker, it has been entertaining, not least Mr Speaker, because we have spoken during the course of this debate about alternative realities and really, listening to the Hon. the Father of the House in his intervention, I am just really not sure what kind of reality sometimes, with all respect to him and he  
1750 knows that I hold him – I have criticised him – but I do hold him in affection – (*Laughter*) I do, I do, I do and I remember my moments with him in short pants!

I have always endeavoured to learn from his good qualities and his bad qualities – where he got it right and where he got it wrong. But Mr Speaker, he said – he made one extraordinary statement – the reality is that the GSLP way is not to agree or to give vent, or to allow the Spaniards to criticise the Government of Gibraltar here and that he has *always defended* the Government of Gibraltar in Spain.  
1755

Well Mr Speaker – Mr Speaker, please! Mr Speaker what about Joanna Hernandez, Mr Speaker, when the hon. Gentleman gave an interview in a programme in Spain, the ‘House of Horrors’ that laid into our Social Services and laid into the way that we were running here in Gibraltar. The Doctor Giraldo Home –

1760 does he not remember that, Mr Speaker? (*Interjection*) Or does he – ? I am not giving way, Mr Speaker  
 (Severall Members: Oh! Oh!) Or does he, Mr Speaker (*Interjections*) or does he, Mr Speaker, live in an  
 alternative reality all of his own making, Mr Speaker?

1765 And of course Mr Speaker, I do not blame him for the selective amnesia. I have to say, Mr Speaker, that  
 the best contribution that he made was when he said, ‘Because the Spaniards have wiped out fish from all  
 the waters that he has fished.’ I have to say he must have said that through gritted teeth and I will tell you  
 why: because Mr Speaker, the Government *actually intends* to allow Spanish fishermen to fish in British  
 Gibraltar Territorial Waters, Mr Speaker!

1770 Or is it, Mr Speaker...? Because look, if he takes that statement to its logical conclusion, Mr Speaker,  
 and if he really is going to defend his socialist principles, Mr Speaker, and all the principles that he has  
 spoken about, Mr Speaker, then of course he is bound to tell the Hon. the Chief Minister, do not allow  
 Spanish fishermen to come into our waters to fish in British Gibraltar Territorial Waters, not only now, and  
 they are doing so more than ever before, but also do not change the law of which I was the architect in  
 1991, in order to allow Spanish fishermen to come and fish in our waters!

1775 Or Mr Speaker, do I detect a sign of division in the Government benches, with the cracks starting to  
 show and divisions between the Hon. the Chief Minister and indeed the Father of this House on this  
 particular issue? Because certainly by the looks and hearing him make the statement that he made, it would  
 appear that he is firmly opposed to the idea flown by the Hon. the Chief Minister of allowing Spanish  
 fishermen to fish in British Gibraltar Territorial Waters.

1780 Mr Speaker, he also made a comment – a comment that has been made on numerous occasions by  
 himself and by the Chief Minister as well – that I condemned the GSD in 1996 and that somehow I was  
 effectively the caped crusader here on behalf of the GSLP from 1988 all the way to 1996. Look, the reality  
 is, that if I had been here in Gibraltar, I would have been supporting my father. That is true. I would have  
 been supporting my father, because he was the hon. Gentleman’s right-hand man; there is no doubt about it.  
 But I did not even vote in the 1996 election, Mr Speaker! I do not even think I voted in the 1992 elections  
 because I was *not in Gibraltar*. I was actually in the United Kingdom and I returned in 1999/2000 and,  
 1785 rightly or wrongly, it is a matter for the history books, it took me all of six months to a year, I think it was,  
 in order to fall out with the hon. Gentleman because of the position that he was taking and the manner in  
 which he conducted a number of issues.

1790 And let me say, Mr Speaker, now coming back to the Chief Minister, that I had an ally. I had an ally in  
 the Hon. the Chief Minister in relation to this, because he was the one that persuaded me, Mr Speaker, that  
 the leadership of the Father of the House *could not be trusted*. Those were the words that the Hon. the Chief  
 Minister used in my house in *Sotogrande*. I suppose that the hon. Gentleman, the Father of the House was  
 always right when he used to say to me the best plots are always hatched in *Sotogrande*. Well, Mr Speaker,  
 that is the reality.

1795 That is the reality and, Mr Speaker; there was a moment of admission. A moment of admission by the  
 Hon. the Chief Minister yesterday during questions, when he said, ‘Well those were just simply the  
 indiscretions of youth.’ Well, if it was indiscretions of youth, Mr Speaker, to say that the leadership of the  
 Hon. the Leader of the House, Mr Bossano was not to be trusted, well I suppose I could be forgiven for  
 having some indiscretions myself in terms of my political past.

1800 Because Mr Speaker, the Hon. the Chief Minister, of course, when he said that he would resign from the  
 Liberal Party within 24 hours of my resignation of the GSLP and then went back on his word, within a year  
 he had jumped from the Liberal Party into the GSLP to basically fill the void that I and others had left  
 within the GSLP! (*Interjections*)

1805 So look, Mr Speaker, I will accept criticism for my political history but of course he has to accept an  
 element of criticism himself and by criticising me, he is also criticising himself.

1810 Mr Speaker, finally, the 1999 Agreement has absolutely nothing to do with spider crabs. Absolutely  
 nothing to do with spider crabs. It deals with Spanish fishermen coming into British Gibraltar Territorial  
 Waters and fishing with nets. That is what it is about. It is not it does not deal with spider crabs and Mr  
 Speaker, my position now continues to be my position then, in this respect: that the law has to be applied  
 universally across the board to Spaniards and also to Gibraltarians, because actually, I have also had  
 complaints from Gibraltarians who I have been told have not been able to fish in British Gibraltar  
 Territorial Waters when Spanish fishermen fish with nets in British Gibraltar Territorial Waters. And look,  
 that is a disgrace! That is an absolute disgrace that the law discriminates against Gibraltarians in that way.  
 (*Interjections*) The law, or the way that it is applied.

1815 Mr Speaker, for all those reasons, we will not be voting in favour of the amendment as the Hon. the  
 Chief Minister has amended my motion. (*Interjections*) No. We are not.

**Hon. Chief Minister:** I call a division for the vote.

1820 **Mr Speaker:** I now put the motion in the terms of the amendment moved by the Chief Minister which has been incorporated into the motion and is therefore the motion now standing before the House. So I call a division, please. (*Interjections*)

1825 The motion before the House is a motion which has had an amendment incorporated into it. It so happens to substitute the original motion (*Laughter*) and puts a new one in front of it. But that is the position. If the amendment had been a minor amendment adding a paragraph or so on, part of the original would have remained. I give that as guidance, because the House is not very used to this sort of thing. It is something that used to happen at practically every meeting that the Hon. Joe Bossano and I attended. But now it is a relatively new thing – but I am glad to see it all the same.

1830 *Voting took place and the results were as follows:*

**FOR**

The Hon P J Balban  
The Hon J J Bossano  
The Hon Dr J E Cortes  
The Hon N F Costa  
The Hon A J Isola  
The Hon G H Licudi  
The Hon S E Linares  
The Hon F R Picardo

**AGAINST**

The Hon D J Bossino  
The Hon Mrs I M Ellul-Hammond  
The Hon D A Feetham

**ABSENT**

The Hon Sir P R Caruana KCMG QC  
The Hon S M Figueras  
The Hon Dr J J Garcia  
The Hon J J Netto  
The Hon E J Reyes  
The Hon Miss S J Sacramento

**Mr Speaker:** There are 6 Members absent. There are 8 votes in favour of the motion and there are 3 against. The motion is carried. (*Banging on desks*)

#### ADJOURNMENT

1835 **Mr Speaker:** The Hon. the Chief Minister.

**Chief Minister (Hon. F R Picardo):** Mr Speaker, I have the honour to move that the House do now adjourn.

1840 Mr Speaker, I gave an indication yesterday of when I intend to come back next month so that hon. Members know that we intend to have Question Time the week of the 23rd and the Budget debate the week of the 30th.

1845 It is my pleasure, Mr Speaker, to call an end to the 23rd meeting of the House during the lifetime of this Parliament and record my disappointment that hon. Members have not seen fit to be able to support a motion that reaffirms British sovereignty over our waters and our sea and our right in this Parliament to legislate for that area.

**Mr Speaker:** Is the Chief Minister not moving the adjournment *sine die* therefore?

**Hon. Chief Minister:** *Sine die*, yes.

1850

**Mr Speaker:** I now propose the question which is that this House do now adjourn *sine die*.

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

The House will now adjourn *sine die*.

*The House adjourned at 6.25 p.m.*