



PROCEEDINGS OF THE GIBRALTAR PARLIAMENT

AFTERNOON SESSION: 3.41 p.m. – 5.55 p.m.

Gibraltar, Tuesday, 28th July 2015

Business transacted

| | |
|---|----|
| Question for Oral Answer | 2 |
| Business and Employment..... | 2 |
| Q445/2015 Registered unemployed – Corrected details for 2014-15 | 2 |
| Order of the Day | 2 |
| Government Motions..... | 2 |
| Social Security (Open Long-Term Benefits Scheme) Act 1997 – Social Security (Open Long-Term Benefits Scheme) (Amendment of Benefits) Order 2015 approved..... | 2 |
| Community Care – GSD proposals for replacement – Amended motion carried | 3 |
| <i>The House recessed at 1.23 p.m. and resumed its sitting at 3.03 p.m.</i> | 21 |
| Community Care – GSD proposals for replacement – Debate concluded; amended motion carried | 21 |
| ADJOURNMENT | 22 |
| <i>The House adjourned at 5.55 p.m.</i> | 22 |
| <i>The House recessed at 1.23p.m and resumed its sitting at 3.03 p.m</i> | 21 |
| Community Care – GSD proposals for replacement – Debate concluded; amended motion carried.... | 21 |
| Adjournment..... | 22 |
| <i>The House adjourned at 5.55 p.m.</i> | 22 |

The Gibraltar Parliament

The Parliament met at 3.41 p.m.

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

[CLERK TO THE PARLIAMENT: P E Martinez Esq *in attendance*]

Question for Oral Answer

BUSINESS AND EMPLOYMENT

Q445/2015

**Registered unemployed –
Corrected details for 2014-15**

Mr Speaker: The Hon. Mr Neil Costa.

5 **Minister for Business and Employment (Hon. N F Costa):** Yes, Mr Speaker, in the first place to thank you for your indulgence to allow me to rectify the record.

As I wrote to you on 23rd July in respect of Parliament Question 445, I inadvertently provided the Hon. Mr Bossino the incorrect unemployment figures, and therefore, I would like to read the answer as it should have been read at the Parliamentary sitting of last week, as follows.

10 Mr Speaker, the average number of Gibraltarians registered as unemployed for the fourth quarter of 2014, the first quarter 2015, and the second quarter of 2015 is as follows: the fourth quarter of 2014 – 268, the first quarter of 2015 – 282, the second quarter of 2015 – 204.

Thank you, Mr Speaker.

Order of the Day

GOVERNMENT MOTIONS

**Social Security (Open Long-Term Benefits Scheme) Act 1997 –
Social Security (Open Long-Term Benefits Scheme) (Amendment of Benefits)
Order 2015 approved**

15 **Clerk:** Government Motions – the Hon. the Minister for Business and Employment.

Minister for Business and Employment (Hon. N F Costa): Mr Speaker, I have the honour to move the motion standing in my name which reads as follows:

‘That this House approve by Resolution, pursuant to section 46 of the Social Security (Open Long-Term Benefits Scheme) Act 1997, the making of the Social Security (Open Long-Term Benefits Scheme) (Amendment of Benefits) Order 2015.’

20 Mr Speaker, this Order seeks to amend the Social Security (Open Long-Term Benefits Scheme) Act 1997 by increasing the rates of old age pensions and survivor’s benefit by 1.6% with effect from 1st August 2014 and which represents the annual pension increase for that year.

25 **Mr Speaker:** Does any hon. Member wish to speak to the question?

I now propose the question in the terms of the motion moved by the Minister for Business and Employment. Those in favour? (**Members:** Aye.) Those against? Carried.

**Community Care –
GSD proposals for replacement –
Amended motion carried**

30 **Clerk:** Government Motion – the Hon. the Minister for Economic Development, Telecommunications and the GSB.

Minister for Economic Development, Telecommunications & the GSB (Hon. J J Bossano): Mr Speaker, I have the honour to move the motion standing in my name which reads as follows:

'This House:

Notes that the former GSD Government announced its intention of no longer funding Gibraltar Community Care and that it would be replaced by payments channelled through the social security system more favourable than the support provided by Community Care to current and future senior citizens and that this was intended to be put into effect after the 2011 General Election.

Regrets that to date the GSD in Opposition has refused to share with the Government the details of the proposals it claims to have had ready to implement and which they have alleged would be better and more in the interest of pensioners than the existing arrangements, and

Condemns the Leader of the Opposition for withholding this information, which would otherwise allegedly have benefitted senior citizens and calls on him to correct the situation by providing a full detailed account before the General Election of what the proposals for replacing Community Care are.'

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Mr Speaker, before I proceed with my motion, I want to clarify to the House what this motion is about. Given the comment by the Leader of the Opposition at Question Time, he asked me how I was going to fund the reduction in the net debt. I answered it was not for me to tell him how I intended to finance a policy objective and he claimed that this is what I am asking him to do in respect of the motion before the House.

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Mr Speaker, either the Member had not yet read my motion last week, or he is incapable of understanding what he reads, which I would say would be fairly lethal for someone in the legal profession.

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The motion calls on him to do what we have been asking the GSD to do since the day they announced they had an alternative to Community Care, which would give equivalent or greater support to current and future pensioners. From day one, all we have asked is how is this going to work as a statutory social security entitlement and how is it better? And if it is better, we would support it.

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They have refused to provide this information before the 2011 General Election, during the General Election, after the General Election and at every Budget since. To this question, on each and every occasion, the response has been deafening silence so I hope that on this occasion the House and the interested parties – the 6,000 recipients of Community Care support – will get answers to what are legitimate questions.

The hon. Member advanced the information last week that the GSD under him now intends to abandon the policy that they had been committed to until now and will instead retain community care as presently structured but I am afraid that as an answer, it is not enough.

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Mr Speaker, Gibraltar Community Care came into existence as an initiative of the GSLP and, as a registered charity, received financial support from the Government. This was done in order to enable it to provide Gibraltar resident pensioners a quarterly household cost allowance, in the knowledge that such a payment contributed to our senior citizens' ability to meet basic cost of living needs.

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The Government's view was, prior to 1996 – and continues to be, post 2011 – that such a result can be best achieved by providing grants at a level such that the charity will be able to build up its reserves and be in a position to attain a level of investment income on which it can rely in the long term. This is in effect what we set out to do, to ensure so that if at any time a Gibraltar Government had competing demands on its finances and found it difficult to provide support, the charity would still be able to do the sterling work in support of our senior citizens which it has been doing since the day it was created.

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Although the then Chief Minister in 1998 stated in Parliament that the setting up of the charity was a very good idea, I regret to say that his actions belied his words. On that occasion he said that he applauded the fact that we had taken the opportunity of revenue that was coming in from a particular activity which enabled us to create the fund; that there was absolutely no criticism; that on the contrary he applauded it.

70 The only caveat was that if the source of funding were to drop and there were less funds from which to support the charity, so be it. At the time, the money from this product was £8 million a year and other products contributed to the total £50 million being provided.

I imagine, given the importance of the work of the charity in support of our senior citizens, that he could hardly have said or done anything else, other than place the initiative to set it up. However, he failed to practise what he preached and failed to honour what he promised, and gave no explanation as to why he was doing so, until the GSD had been some 14 years in office.

75 The present leader of the GSD and Leader of the Opposition has constantly praised the record of the previous year of the GSD Government shortly after he stopped trying to remove them from office in the 2003 election. That was when he first claimed to have decided to enter the election campaign, then in competition with the GSLP, because I was not willing to hand the party over to him and he believed I was content to allow the GSD to continue in Government whilst I remained in Opposition as the handbrake on any sovereignty deal with Spain. This incidentally, Mr Speaker, by implication suggested that he believed a sovereignty deal with Spain was a possibility under the GSD Government, unless I was there to put a stop to it.

85 However, shortly after coming a poor third in 2003, he started his journey from fierce critic of the GSD to stalwart defender. This to the extent that he said at the time of winding up his outfit and merging it with the GSD, that if his move put them at risk he would himself pull the plug on the proposed merger rather than expose them to risk. Such was his incipient love affair with the party, even at that early date. A love that has grown since, to the extent that he now intends to cling to the leadership title even if he gets slaughtered in the forthcoming election. Such an example of love at first sight, from outright opposition to selfless suppression of self-interest, is in my experience a rare event in politics. However, it bears a resemblance to a phenomenon in social psychology known as ‘cognitive dissonance’.

90 Be that as it may, the facts are that it was only in the final term of office of the GSD, 2007 to 2011, when he was a former Minister and therefore covered by collective Cabinet responsibility, it was only then that the new explanation was first revealed. Therefore the mantel of responsibility falls on him now to account for and defend the policy with which he is identified as a participant, as a Minister and which his recent statements suggested, continue to be the policy to which the GSD still subscribes under him as Leader of the Party and Leader of the Opposition. At least it was so until last week, when he announced that it was about to change.

100 Even though in March 1996 the charity had assets of £63 million, of which £60 million was in cash, the policy was to continue to build up the reserves and to this end we committed three payments of £5 million each in April, August and November 1996. The Treasury was instructed to make the first payment in April. This did not happen so the first effect of the change of Government in May 1996 was that a grant of £5 million approved before the General Election never reached the charity.

105 The excuse of the GSD administration was that if it had been paid, they would not have asked for it to be refunded; but as it had been overlooked and not handed over to the charity, they had decided not to honour it because the charity had more than sufficient money. Not only did they not make this initial payment, but no other payments were made for any other year in their first term, by the end of which the reserves were down £3 million.

110 In 1996-97 the charity continued to provide support to pensioners without any grants from the Government by relying on its investment income, which was high enough to cover its ongoing costs and leave a small surplus, in spite of not having received the £5 million we had already committed to pay before the General Election. This meant that cash reserves actually increased in this financial year in the first 10 months of the GSD Government – the first time the reserves of Community Care went up under the GSD and the last.

115 In 1997-98 investment income fell below running costs and the reserves went back to the level of 1996. In the Budget of 1998, I raised the matter, pointing out that what had been missing from the estimate for 1997 actual expenditure column was a £50 million grant from the Social Assistance Fund; that the same was true for the forecast outturn of 1997-98 and for the draft estimate for 1998-99.

The over-the-top characteristic response from the Chief Minister was:

It is true that the hon Member made two £15 million contributions to Community Care Limited. It is also true that this is not happening but it is not happening, Mr Speaker, because it is not necessary or was the hon Member proposing to continue to pump in £15 million a year to Community Care Limited regardless of whether it needed to simply so that he could go outside to the Piazza downstairs and when he passed the old folks sitting by the kiosk and say, "I have given you another £15 million of security for the future". How long was he going to try and spin out that nonsense?

120 Well, I am going to go through the 14 years of spinning out the nonsense. *(Laughter)*

Of course, what he knew then and we did not, was that the charity was already failing to cover its running costs. In the 1999 Budget I raised the question again, pointing out that contrary to the view

expressed previously, he had, that the import duty might go down, the opposite was the case and the Government could now afford to resume making capital grants to Community Care. The Government's
 125 response was that the grants had not been stopped because of lower revenue. The Chief Minister said:

Well, I am sure it is not intentional that the hon Member misquoted me. What I actually said was that the capital payments to Community Care were not being made because Community Care was currently fully funded to meet its obligations but that the Government had a commitment to increase its financial provision to Community Care to ensure that that remains so and the Government stand by that commitment. The income that Community Care is making from its present capital assets is sufficient to meet its payment out obligations and the Government see no virtue in tying up capital to meet an obligation which is presently being met but, of course, it is axiomatic that if and when that ceases to be so that the Government will top up the financial provision for Community Care to ensure that they can continue without eating into their capital to continue to make their annual outgoings in terms of payment to the beneficiaries of the trust.'

Whereas the previous years' statements might have been intended to convey such a commitment, this had not been done in such explicit terms. But now there was no doubt. The Government told Parliament that its position had been since 1996 that it would top up the financial provisions to Community Care so that they could continue to meet their outgoings without eating into their capital. It was, we were told,
 130 nothing less than axiomatic. Well, Mr Speaker, never mind whether it was axiomatic; it was not even true.

In 1997-98 the recurrent expenditure exceeded investment income of a charity by £1 million and cash reserves were down. In 1998-99 the move into the red by the charity accelerated and the deficit grew. The random continued in 1999-2000, reaching £2 million deficit in that year.

In 2001 we learned something new: the GSD Government claimed to be *still* committed to providing the annual recurrent costs of the charity so that the reserves of £60 million cash would not need to be depleted. This was the reason given for buying from the charity £3 million nominal value of Gibraltar loan stock on
 135 1st November 1999 and a further £7 million on 1st February 2001.

They told us in Parliament that this was in order to protect Community Care from a diminution in the value of capital assets and that the Government was purchasing the stock so that the capital value would remain as close as possible to the £60 million the charity started with. The message was clear: the House
 140 was told the information on cashflow projections were being produced so that the Government would know exactly at any given moment what the ability of Community Care to meet the commitments were, without having to resort to capital spending. They declared: 'This is the target. That is the criteria that the Government follow on the question of when finance needs to be injected.'

In 2001, when this was being said in Parliament, the annual deficit hit almost £2.5 million and by the end of that year, the reserves had dropped to £57 million from the £63.6 million reached in 1997. The reiteration of the commitment was as clear as the axiomatic of 1998, and as untrue.
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The next step to attempt to square the circle came with the rate on the reserves of the Social Security Short-Term Benefits Fund. The £5 million from social insurance contributions had been accrued over a number of years as a result of a larger share of the contribution being attributed to the Short-Term Benefits Fund rather than the Long-Term Benefits Fund. The removal of this money to put it at the disposal of the Government for other expenditure was the first time that any Government had attempted to do any such thing since the beginning of the social insurance system in 1954 and legislation was brought to enable the Government to remove the money from the fund and use it elsewhere as the Government saw fit, finishing
 150 up in the Consolidated Fund or in any special fund.

We voted against this and criticised the Government for making this move; and even more so, for the transfer to the Social Assistance Fund when it had been known for years how important it was to maintain a clear demarcation between the source of funding for social assistance and the source of funding for statutory entitlement to social insurance benefits paid for by contributors.
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In the 2002 Budget, I said the following:
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'There is one thing in the forecast out-turn which for us is an important issue of policy which has not been mentioned and on which the Opposition feel very strongly and there is therefore a clear political divide in this House. The estimates show that in the financial year just ended, £5 million have been removed from the Social Insurance Short Term Benefits Fund and paid into the Social Assistance Fund. We are totally opposed to this decision. When the Government brought an amendment to this House to provide for money to be taken out from the Social Insurance Fund and transferred to the Consolidated fund or to another special fund we opposed it and argued against it. Social Insurance Contributions are compulsory payments to fund the receipt of identified benefits, they are not taxes on income to provide general revenue.'

Just before polling day in the 2003 General Election, the GSD was still defending the continuation of the charity with capital grants from the Government. They issued a leaflet saying the GSLP statement that the GSD had stopped funding the charity was completely untrue and that they had put in an extra £10 million into community care, clearly showing that they were, at the time, trying to conceal the planned

165 rundown from the electorate so they reversed their policy temporarily and went back to it after they were re-elected.

170 So to put their £10 million in context, we need to understand that this was not a charge on their existing revenue of 2004. There was the unfulfilled commitment from April 1996 of the £5 million approved payment to the charity which was retained by the GSD because the cheque had not been handed over to Community Care after they took office; and secondly there was the £5 million which was not from import duty or Government taxes but from social insurance contribution first credited to and then removed from the Short-Term Benefit Fund.

175 These were the only contributions which were grants not specifically linked to the operating cost of the charity. There was no further funding until 2009 when the charity had totally exhausted its resources and the Government announced its intention of replacing it with a statutory system and started meeting its day-to-day operating costs in the interim.

A projection made in October 2009 showed that by February 2010 the reserves would have fallen to £890,000, from the £63.5 million that we left, and that by March the charity would have been in the red to the tune of £1.9 million, a figure progressively increasing every month after that.

180 The real bombshell, however, was the revelation by the Chief Minister in the 2010 New Year message that the Community Care support arrangement in place since 1990, a total of 20 years, six under the GSLP, 14 under the GSD – 13 years out of the 14 GSD years which were funded by the grants under the GSLP – was about to be done away with, alleging concerns about an EU challenge of which there was no indication. At the time he said: ‘Whatever we may think of the merits of any such claim, it represents a ticking time bomb, and there are children and grandchildren in the future, for which they cannot have recourse to the UK. I am not willing to bequeath this potentially lethal legacy of a massive and unaffordable backdated claim to our future generations and so this year, the Government will, as I said at Budget time, introduce significant reforms to protect Gibraltar from this possibility. This reform will not result in financial loss to our pensioners or recipients to Community Care.’ The reference to the Budget was to 2009.

190 Six months later, in June 2010, he reacted to my statement that he had allowed Community Care to run out of money, claiming that I was saying this to suggest that Community Care payments were in jeopardy, which he said I knew to be a complete and utter lie. Well, Mr Speaker, it is not a lie to suggest that having its own reserves makes community payments more likely to be delivered by the charity than if the charity is dependent, hand to mouth, on the political will and financial capability of the Government of the time – especially when it was relying on the delivery of promises from a Government that said it was ‘axiomatic’ that the £60 million cash reserves would not be depleted but kept intact. He was saying it in 1998 and in 2001, and was now saying in *The Chronicle* interview the contrary – namely, for example, on pensions and Community Care, the complete abuse of a statement by the Leader of the Opposition that the Government has allowed Community Care to run out of money.

200 ‘He did not say’ – meaning me – ‘that as a matter of book-keeping. He said that to transmit to the elderly the view that their Community Care payments may be in jeopardy which he knows to be a complete and utter lie. But did he have any reluctance to worry elderly people in Gibraltar? No. It has been the Government policy for 15 years to run down the fund in Community Care so that we can make alternative and better arrangements. Does that mean that anybody’s payments are in jeopardy? No. Payments for Community Care will come from where they always have – from the Gibraltar Government budgetary finance’, which is not true.

210 This was even more astonishing than what he had said in January: a policy of 15 years deliberately to bring Community Care reserves down to zero, which was the opposite of the commitments given in Parliament describing the opposite policy, namely to preserve the £60 million cash reserves, not to run it down. If it was a policy for 15 years, it is a policy that the hon. Member defends and applauds. And if as a result of this policy to run down the fund, we see this finalised and reached in 2009, then he was already in Government as a Minister and shares the responsibility.

215 A situation which I predicted in my 2009 New Year message, when I said: ‘Keeping the reserves at the level we left them was one promise Mr Caruana broke very soon after he made it. The Government finances are likely to be in surplus for the foreseeable future and no doubt fairly soon some of this will have to be provided on an ongoing basis to Community Care, as his own reserves begin to run out’, something which I have now been able to confirm.

220 So now, the 15-year-old policy of run-down was complete. Was it replaced by a statutory entitlement to equivalent payments through Social Security and enhanced dignity for our pensioners which was supposed to be all the plusses of the new system? No, Mr Speaker. In my contribution to the 2010 Budget, I raised the issue which he had failed to mention. I said:

‘... if the Government has come to the conclusion that there is a risk of Spanish pensioners claiming Community Care payments, as he said in his New Year message, and has had a plan and an alternative to Community Care which will be more advantageous to pensioners, then the sooner he does it the better. We shall judge whether and, if so, how advantageous it is, when we see it. If he has had something better than Community Care for 15 years then it is certainly a mystery why he has not done it before.’

In his reply to my Budget speech, he accused me of being selfish and cynical for saying that, and worrying pensioners to steal a handful of votes from them. He went on:

‘The hon Members opposite, Mr Speaker, have poo pood’

– he said it –

‘the idea of the need to reform Community Care. So that there is no doubt about the difference between the party in Government and the parties in Opposition on this matter, the Government rejects as irresponsible and un-thought through the GSLP Liberal Alliance’s view that there is no need to reform Community Care in Gibraltar.’

225 Irresponsible and un-thought through – when *we* thought it. I would like to know what they think now that they say they are going to do it.

I asked in September 2010:

‘Can Government confirm whether it is still the intention to introduce this year, significant reforms to the system of Community Care to protect Gibraltar from the possibility of any successful EU challenge, as it said it would do in the Budget session of 2009?’

The answer was:

‘It remains the Government’s intention to carry out this *necessary and desirable* reform, although it may suffer delay until next year.’

230 In my January 2011 New Year message, I said the following: ‘One important issue for us this year is the future of Community Care, the brainchild of our party and the backbone of the financial security of my generation and those that come after us. A year ago, you were told that the arrangements for Community Care payments represented a financial time bomb, ticking away under our children and grandchildren. Mr Caruana said he was not willing to bequeath this “potentially lethal legacy” to future generations and that he would introduce reforms in 2010 that would protect Gibraltar against this possibility as he had promised to do in the 2009 Budget. This year we find not one word in the Government’s message. A time bomb ticking away about which he has done nothing since June 2009. If the danger is as real as this, then it seems a gross dereliction of duty not to have provided the protection he claims to have up his sleeve. We are fully committed to the continuation of Community Care and have yet to be convinced that it needs to be replaced by something else. In Government we would therefore act so that it has its own financial reserves, contrary
235 to the GSD policy of deliberately running this down to zero, which is what we have done since 2011.’

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In the 2011 Budget, the Chief Minister said:

‘Mr Speaker, I have said before that the Government is committed to reforming pensions and Community Care, among other reasons, to avoid the threat of a future legal challenge for which we could no longer hold the UK responsible, and which may be a financial threat to future generations. Gibraltar is past the stage where the financial support that it gives to our elderly people needs to be in the form of charity. It would be much more compatible with the dignity and respect in which we hold our elderly in the modern Gibraltar that their financial support be a matter of legal, statutory right and not charity. Accordingly, with effect from next year’

– meaning 2012 –

‘Community Care payments will become a statutory right and will be paid in conjunction with old age pensions. Everyone will continue to receive the same amount of money as they do now. There will be no losers. No one will lose out or receive less. But it will be a legal right and not a matter of charity.’

I replied as follows:

‘Community Care’s future is another bone of contention, Mr Speaker. The ticking time bomb under Community Care has been the way the Government has chosen to describe the situation, not mine. If anything can be said to be designed to make pensioners worry about the future of the support they get from Community Care, surely it is to tell them that there is a ticking time bomb, not to say, as we have done, that our policy is to continue with the system. Here we have a classical example of the irresponsible and politically self-serving arguments put forward by the hon. Member opposite. If the Government says it is a ticking time bomb in the Budget of 2009 and has done nothing about it two years later, either it is not such a great risk, as he chose to portray by his choice of words, or he is failing to put in place a better system with a lower risk which he claims to have up his sleeve, having been preparing for this by deliberately running down the reserves of Community Care for fourteen years. The crime that I am accused of is, that having seen no evidence of what he says, and having seen a number of changes introduced which, in my judgement, if anything, increased rather than reduced the exposure to risk and which I do not think is in anybody’s interest for me to spell out, when I say I do not agree with him and that I will hold back my judgement on an alternative when I don’t know what that alternative is, I am accused of scaring our pensioners. This Parliament is being asked by the Government to vote money for Community Care again this year with no attempt being made to deal with the exposure to risk which he says exists, which he says he knows how to cure at no cost to either existing beneficiaries or future generations and which he chooses not to put in place just yet. Why, if there is such a huge risk which he only has discovered after Community Care ran out of money in 2009, why does he not give it priority? As usual with the hon Member, he gave different reasons on different occasions. In January 2010 he said he would introduce it during the year. Towards the end of 2010 he said that there was slippage and that it would happen in 2011. Well, I do not see what priority he has given the Legislation Unit to produce what is required in 2009 if after 18 months the legislation he says he needs to produce was simply not ready. Now it is two years and we still do not know exactly when this legislation will see the light of day or whether the legislation will be published before the general election. We were told in the Budget last year that the danger of the ticking time bomb blowing up was not imminent. Well, I can only say that if someone knows there is a ticking time bomb, knows how to disable the bomb and knows where it is going to blow up, then it is not unreasonable a conclusion to come to, that that is the person who knows all these things is the person that put the time bomb there, in the first place. I cannot for the life of me understand why he has chosen to make such statements which can only serve to encourage others to do something we would all want not to happen without being ready to immediately close the risk. Because I press him to come clean and present his alternative ... when we see it so that we can decide if we can support it when we know what it is, because our position is to reserve our judgement when we know what he is up to, he claimed last year that this meant I had poo pood his idea. Mr Speaker, I can assure the hon Member that poo pooing was not something that I was ever taught how to do, in the area of the city where I was born and bred, near Devil’s Gap. It may be polite public school terminology, but in my environment we always used more, shall we say, robust language, to decry or oppose something. He said last year that his Government sees a real danger for future generations and was going to do it because it was the responsible thing to do to protect future generations without affecting their pensions. Our reply is that we do not see the danger, but if you do, get on with it and do not waste any more time. He claims that this reply makes us unfit to win an election. He insists it will be done but the ticking time bomb that only he sees is not going to explode just yet. Well, there is another ticking time bomb’

245 – I told him –

‘the one he will have to face in the coming general election and that has a definite date by which it will go off!’

And it did and we are here and they are there.

‘Though I accept he is the only one that can decide, for a while longer, when the ticking stops. Perhaps he has chosen not to protect future generations after all and use the risk he claims to see as an election platform’

– which frankly I thought was going to happen – they would campaign on the new policy –

‘because the window of opportunity, if legislation is needed to deal with this issue, is fast closing and if the danger is real he should not delay it one more day. Today he has produced a new version of his motives for wanting to get rid of Community Care. I hope it is not that I started it. He says that the payments are charitable handouts and that they should become a legal right. This is incredible, Mr Speaker. Nobody has ever suggested that the independent entity with charitable status that receives Government funding from the process of import duty, has spent 22 years dispensing charitable welfare payments to those who are too poor to look after themselves. The status of the institution as a charity is because it is not a profit making organisation. To imply, for example, that the social wage extension in 2009, introduced at his instigation, to which I referred above which suggests that up to £5,000 per year can be given to a person with an occupational pension, irrespective of its size, as well as in addition to earning £15,000 from gainful employment, to suggest that this is an undignified and offensive handout, is simply unbelievable. The very risk that he has been hinting at for two years is the one that arises when a Government elsewhere pays out statutory amounts which are not means tested, not linked to any threshold and not linked to the payments of contributions. If he has an alternative that can preserve all the benefits of the present system that are provided by the Community Care entity and intends to stop funding the Trust after December and pay directly the beneficiaries as from January’

– which was the implication of what he had said –

‘together with their social insurance pension, that is not enough to say so in a couple of paragraphs in a Budget. If he is saying that the money we are voting this week to allow the Trust to continue until December and that in January they will no longer have a role to play and that the social security department will be making the same payments to the same person, then he needs to produce the alternative mechanism now and not after the general election. If when we see what it is, we agree that it works, we will support it. We will support any system that is better than the one that is there. But he has got to go further than simply telling us that he thinks it is because, in fact, the description today did not sound like a very safe system to me. I have to say that if payments to pensioners directly by the Government leaves the Government less exposed to challenge and makes it less risky than when a third party, a private charity is making the payments, then, Mr Speaker, everything the experts have been saying on the subject since 1989 has been complete nonsense.’

250 The ticking time bomb was discovered in 2009. The legislation to diffuse it was not yet ready in 2011. We have not been able to complete it by 2015. For a very simple reason, Mr Speaker: no-one in the Legislation Unit seems to know anything about the draft legislation that was supposedly in the pipeline and we are in no position to provide a brief, since we have absolutely no idea what was planned.

255 During the election campaign that followed, the GSD refused to provide any explanation of how the replacement for Community Care would operate and limited itself to say that no-one would be worse off and that it would be implemented early in 2012.

260 I was accused of being selfish when I criticised the policy of the GSD. Well, how much more selfish can you get than to claim you have already identified and designed, ready to implement in 2012 after some slippage, a system which is much better for pensioners but you refuse to reveal it to the Government of the day so that the pensioners benefit from it, so that they can implement it, so that they can implement what was your policy and what you intended to do? We cannot do this without their co-operation because we have looked at other options a long time ago and there was no way that we, or the officials with expertise who were consulted, could see how it could be done.

265 Mr Speaker, in my previous intervention since December 2011 when I have asked the Members opposite to share with us what this new scheme is, I have made clear that no-one in the relevant Department had any knowledge that there was any such scheme ready to implement in 2010; that it is not the case that there has been some slippage; and that it might have been done in 2011; and that it was not going to commence in 2012; and that it would not have happened if the GSD had been returned to Government.

270 Well, if no such alternative exists, then the Members Opposite participated in an election campaign, promising to deliver a replacement system for pensioners which would be better than Community Care when no such system existed and there was no intention of delivering on this election promise.

275 What this does not explain is why they should want to do away with Community Care if there was nothing to put in its place and why was it necessary to do this in 2009 other than the fact that the reserves of the charity had run dry that year? But in any event, it is not as if there is any evidence that their alternative, even if it ever existed, would have cost less. Unless of course it was not true that everybody that is eligible now would have been eligible under the proposed statutory scheme.

280 This is not the only issue that needs explaining. If in 2009 something happened which led the hon. Members opposite to conclude there was a ticking time bomb and they had a solution which the Social Security Department was not aware of, why have they been unwilling to share it with us so that we could have done something about the ticking time bomb since 2011? We would have been happy to look at a better option if it worked and let them take the credit for thinking of it.

285 If the present system no longer represents such a massive risk that merits the ticking time bomb label, what has changed since 2009? If indeed as we stated in 2010 and as the evidence from the finances of the charity suggests, this was no sudden decision nor was it a case of benign neglect as I had assumed it to be, but a deliberate policy carried out systematically since 1996, then there is a lot to answer for, given that this Parliament was told the very opposite *consistently* throughout the 14 years. A classic example of misleading the Parliament and the electorate on a massive scale in a highly sensitive and very important issue, with no explanation as to why it was done and no apparent reason for doing it.

I commend the motion to the House. (*Banging on desks*)

290 **Mr Speaker:** I now propose the question in the terms of the motion moved by the Minister for Economic Development, Telecommunications and the GSB.

The Hon. the Leader of the Opposition.

295 **Hon. D A Feetham:** Thank you very much, Mr Speaker.

My intervention will be rather short. I hope the hon. Gentleman does not interpret this as a sign of my dismissing anything that he has to say. It was very interesting to hear what he has to say, much of which I think had some force. So I hope that he does not interpret my short intervention as a sign of dismissing anything that he has said today.

300 Mr Speaker, I am going to resist the temptation of striking at his political past in the way that he has struck at my political past. And indeed, I am not going to strike at anybody else on the Government's side, at their political past, because I am not the only one to have changed political parties. Because really, what I want to do is to concentrate on the issue at hand, which I accept is an important one.

305 What I will say is this, Mr Speaker: it does sadden me that somebody who has had the distinguished political trajectory and the distinguished political career the hon. Gentleman has had – and I accept that – that he, almost seems to be caught in a political time warp. He has spent an hour of this Parliament's time, not arguing with me or debating with me, because I have already said that I agree with much of what the hon. Gentleman has said in terms of how we structure this particular issue... The rest of it is periphery, the funding of Community Care. He has spent an hour arguing with the hon. the backbencher, former Chief Minister, who is not even here, Mr Speaker, *who is not even here*, because he has spent an hour with quote and counter quote about what he said about what Mr Caruana said in response. It was almost a valedictory statement of his political career and his political and personal political battles with the hon. the backbencher, Sir Peter Caruana, which I believe are irrelevant in today's political climate and in moving forwards and looking to the future in terms of trying to sort out issues of this nature and trying to see how best one can fund Community Care and make payments to our elderly.

315 Mr Speaker, the motion reads as follows, the second paragraph:

'Regrets that to date the GSD in Opposition has refused to share with the Government the details of the proposals it claims to have had ready to implement and which they have alleged would be better and more in the interest of pensioners than the existing arrangements.'

Well Mr Speaker, I am telling him that the GSD has no alternative to the funding of Community Care in the way that they are funding Community Care now. I have told them!

320 Now, every political party is entitled – and it often happens when there is a change of leadership, or indeed a change of personnel – to change their policy. We have changed ours. If he was really interested... and indeed I would not debate it across the floor of this House because I believe it would be damaging to the greater public interest and indeed to pensioners, who at the end of the day are the ones who benefit from Community Care. If he was really interested in alternatives to Community Care, because, for example... and he has already quoted the hon. the backbencher in 2009 when he said about the ticking time bomb. If he was really interested, why was it a ticking time bomb? He could have written to me and I could have discussed it with the hon. the backbencher and it could have been dealt with behind the Speaker's Chair. Very often the hon. Gentleman asks me, when I ask a question, 'Well, let's deal with it behind the Speaker's Chair,' because it is a matter that may be commercially sensitive. Well, there cannot be anything more sensitive, Mr Speaker, than an allegation that Community Care was a ticking time bomb, and if he were to ask me, 'Well, why is that the case?' I am quite prepared to sit down with the hon. the backbencher for the hon. the backbencher to explain it to me in private and for me to explain it to the hon. Gentleman – in private, not across the floor of this House, not across the floor of this House, because what I am not going to be doing is placing in the hands of the Spanish Government or anybody across the Frontier any ammunitions that they could use against us and against Community Care, which at the end of the day is something that is in place in order to benefit our pensioners. Indeed, it is something that he was the architect for it and it is one of the plusses in his political career, and I do not suppose he would do anything or want me to do anything across the floor of this House in order to jeopardise Community Care. So if that is what he is interested in... If what he is interested in is an explanation, why was it a ticking time bomb in 2009? Well, I will talk to the hon. the backbencher and we can have a conversation behind the Speaker's Chair and talk about it.

340 But, Mr Speaker, as far as policy is concerned we have absolutely no intention of changing the current structure for Community Care, how Community Care is funded and the receipts of Community Care payment by our elderly.

Other than that, Mr Speaker, I cannot usefully contribute to this debate.

345 **Mr Speaker:** Does any other hon. Member wish to contribute to the motion?
The Hon. the Chief Minister.

350 **Chief Minister (Hon. F R Picardo):** Mr Speaker, yes, the hon. Member opposite in his contribution has suggested that the statement by the Hon. Mr Bossano in presenting this motion, the speech by him somehow suggests that Mr Bossano, to use his words, is caught in a political time warp. Mr Speaker, I think that requires some careful reflection because Community Care, which is the subject of this motion, is actually a very real and present issue for many members in our community. The charity Community Care pays a household cost allowance today to many people who sincerely need or who genuinely need that money. Therefore, to suggest that arguments about the possibility of Community Care continuing to exist

355 not in the political league of 1996-2000 or the league match 2000-03, or even the league match 2003-07, but in the run-up to the General Election in 2011 and what might have been the policy of the current administration were it of the political colour of Members opposite, is not to talk about something which is steeped in history; it is to talk about the issues which are present and real.

360 Mr Speaker, it is true that Mr Caruana, the hon. the backbencher is political history, it is true that the GSD may soon be political history and it is true that the hon. Member opposite is doing everything possible to make himself political history as soon as possible. But Joe Bossano has demonstrated today and in other interventions in this House in the past year that he is very much a part of the present and of the future with his incisive analysis on a number of matters, in particular now on this important subject.

365 Mr Speaker, what we have seen, however, from Members opposite, is not just falling into the trap of once again seeking to portray a Member on this side in terms which are less than positive – I mean accusing Mr Bossano of being caught in a time warp etc; what we have seen, and this is a factual description, I think, given what we have just heard, is a political U-turn of the highest order, and I do not think that the hon. Member opposite has tried to hide that. Perhaps, Mr Speaker, that is to his credit but it demonstrates, in terms of consistency, that it may not be possible to even describe Members opposite in their current
370 incarnation as the GSD, because if the people who stand under the banner are so different and they represent such different policies... Mr Speaker, of course they have the right to change those policies, but are they really the GSD? I put it to you, Mr Speaker, and to all those listening, that the answer is no; that we are seeing a transformation not just of approach to this subject but on many others, some of which we might actually welcome on this side of the House; that the party opposite is not actually the party that we had
375 opposite us until the hon. and learned the backbencher was leading it some 24 months ago.

There is an opportunity, Mr Speaker, however, for broad agreement across the floor this afternoon. The hon. Member opposite has in his statement at least recognised the huge value to this community, in particular to our pensioners, of the work that was done by the Hon. Mr Bossano when he was Chief Minister in the establishment of the charity Community Care, ably assisted, if I may say so, Mr Speaker, by
380 Mr James Levy QC at the time, who was, I think, and still is the Chairman of the Trustees of Community Care, that has been able to withstand repeated attacks from people beyond the shores of Gibraltar, not just in Spain, and have therefore demonstrated that the brains of Bossano and Levy together were able to devise a mechanism to protect the income of our elderly people in Gibraltar in a manner as effective as was necessary and which was unassailable even by those who at one stage sank to an unprecedented low and described those arrangements as a scam.
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Mr Speaker, I think that, given the debate in this House has been less than friendly in the past month, this is a good opportunity for the House, in considering this motion and having heard what the hon. Member has said, which I have dealt with until now, concentrate on that issue which I think meets a great measure of agreement between us, and that is to recognise that work that was done by Joe Bossano in what
390 will be, in my view, one of his many very enduring legacies to this community.

It is not lost on me, Mr Speaker, and I am sure on many others, that the photographer who took the portrait of Joe Bossano for the booklet that the Gibraltar Photographic Society issued, I think three months ago, of local personalities, in setting up the shot put in view, just at about the same level as the legendary moustache, a booklet on the accounts of Community Care, which was as visible as all the other well-known and well-loved characteristics of the man being photographed. That, Mr Speaker, will be his legacy – one of his many legacies – and the one good thing to come of this debate is the very large measure of agreement across the floor of the House in that respect. (*Banging on desks*)

Mr Speaker: Does any hon. Member wish to contribute before I ask the mover to reply?

The Hon. Mr Joe Bossano.

395 **Hon. J J Bossano:** Mr Speaker, I think what the hon. Member cannot escape simply by saying, ‘Well, look, this is history, that is the past, and let’s look to the future’ is that we are not talking about 2,000 years ago; we are talking about 2010. That is to say in the year before the General Election his position, as part of the Government, had to be what the House was told. The position of the Government then said, ‘There is no doubt that the difference between the party in Government and the party in Opposition is that the
400 Government rejects as irresponsible and un-thought-through the view that there is no need to reform Community Care today.’ Should I now welcome him to the ranks of the irresponsible and un-thought-through?

405 One of the things about Parliament and *Hansard* is that everything you say in this place catches up with you sooner or later, and when you have got a guy like me who remembers everything over the last 43 years that is not a very safe thing.

What I am saying to the hon. Member... independent of the issue of whether there was a risk or there was not a risk, because it is not a question of us, by mentioning the risk, doing something that is dangerous – we are saying we do not believe the risk exists. But if you tell me that there is a risk and you feel that it is

410 dangerous to explain it to me here, then it is up to you, as has been said when the hon. Member gives the example of asking a question – if he asks the question in public, he gets the answer in private. Well, I am asking the question in public and I have been asking the question in public for the last seven years since it was first mentioned in 2009, but I have never had the answer in public or in private, or an offer of the answer in private on the basis that it was not in the public interest to give me the answer in public.

415 The reason why I did not get an answer is because there was no answer. We still do not know why the GSD wanted to shut down Community Care. We do not know that. If it is true that a change of leadership can make a ticking time bomb disappear, then we have discovered some new concept in life which I have never heard of before. If it is true that the hon. Member was a Member of that party when it was thought irresponsible and un-thought-through to say there is no need to reform it, if that was true then he should be able to tell me without having to ask the distinguished backbencher what it is that made us irresponsible, because he has now joined the rank of the irresponsible if he does not know it himself.

420 I can tell the hon. Member that in my judgement the risk did not exist. In my judgement, the way that it was said that it was going to be done is impossible to do, and I will tell him why. If he goes back to May 1996, in the official opening of the House I revealed that the British Government, before the 1996 election, had tried to commit me to give a written indemnity and an undertaking that Community Care would be closed down after the election, whoever won the election, and I refused to do it. And the first thing I did was to make it public in 1996 and urge the GSD to resist the pressure to close it down, which they did because it is still there, and I am glad that they did. But having resisted the pressure it would appear that, for reasons that were never spelt out, of their own volition they decided that there was a better way of doing it. And it would not have been a controversial thing if from the first day we did not say, ‘Well, look, if you have got something better we are not going to do it, because if you say black we say white, and if you say white we say black.’ We did not say that. We said, ‘If it’s better tell me – show me how it’s better.’

430 The answer is that what I have brought today for the hon. Member might just be repetitive history and living in a different...time warp, but I have to tell him what this record shows is *consistent*, consistent lying in Parliament. That is what it shows and that is serious, because I have given the evidence –

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Hon. D A Feetham: Mr Speaker.

Hon. J J Bossano: Yes, I will give way.

440 **Hon. D A Feetham:** Mr Speaker, obviously it is not my lying, because... He is not making an allegation of lying against me because of course I made no... none of those things, but he is making an allegation of lying against the hon. the backbencher and I urge the hon. the Speaker to show consistency in the way that this question of lying has been dealt with. Mr Speaker admonished me when I said the Hon. the Chief Minister had been lying when he made certain allegations against me, and I think that he ought to uphold the rules as well against the Hon. the Father of the House.

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Mr Speaker: The Leader of the Opposition I think is quite right. I would urge the Hon. Mr Bossano to withdraw what he has just said and perhaps he might think that what was happening was that the hon. the backbencher never got around to revealing what plans he had.

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Hon. J J Bossano: No, no, no, no. No, Mr Speaker, I am not saying he was lying about having plans; I am telling the Parliament that there were no plans. At least there were no plans known to anybody other than him, but he might have had plans in his head. What I am saying to the House is the House was told on several occasions, ‘The £60 million will not be touched.’

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You can only use the word ‘lying’ in a substantive motion and this is a substantive motion, and if I have to move an amendment to the substantive motion to include the distinguished backbencher then I will do it, but what I cannot accept is that I have to withdraw. If I am telling the House on such and such a date we were told there is an axiomatic commitment that the reserves will not go down, and on such and such a date we are told the Government has been planning from day one to eliminate the reserves, well look, the two things cannot be true.

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Mr Speaker: But in the question of unparliamentary language, such as ‘a lie’, the context is important. It is the context in which it is being said which very often determines the extent to which it is unparliamentary.

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I take the view that I do not think it is entirely fair, in the absence of the Hon. Sir Peter Caruana, that he should be accused here today of lying when probably... From what I have heard of the history that Mr Bossano has outlined it is clear that he seems to have been the only one who felt that it was a potential time bomb, because given the principle of collective responsibility one would have expected the Hon. the Leader of the Opposition to have known what those plans were, if they actually existed.

470 I can never recall, during the 16 years when I was in Government, that the principle of collective
responsibility did not apply, other than in some cases of foreign affairs where something went from
Gibraltar to London, which history has recently shown all Ministers did not know about. But on an issue
such as Social Security and Social Assistance we would all have been involved and it is clear that the
475 Leader of the Opposition, who was a Member of that Government... There are other Members of that
Government here – they do not seem to have been aware as to what plans there were, neither were officials
aware, so perhaps... I think it would be more correct to say this is what the then Chief Minister had in
mind; he never got around to doing it.

480 **Hon. J J Bossano:** I have not said that he is lying about the time bomb, because if there is something
described as a time bomb it is a matter of opinion and it is a matter of judgement. Something might be
considered a time bomb by Mr Caruana and not considered a time bomb by me. What I am saying is that it
is not possible to say that the GSD Government – because he was speaking not as an individual but in the
name of the Government – the GSD Government gave a solemn undertaking in this Parliament on several
485 occasions that they would guarantee that the £60 million reserves would not be depleted. They gave a
solemn undertaking. And when I said they had not honoured what they committed themselves to, they had
not honoured it, the answer was that *I* was lying. *I* was called a liar for saying they had not honoured it, but
then the person who calls me a liar turns round and said that I am lying because it is not that he did not
honour the commitment, it was that he never intended to comply with it because he was planning from day
one to run the thing to zero. So the two statements cannot be true.

490 If to say that somebody is lying is something that one should not say, I would say one should not say it
unless there is evidence and if anybody makes a statement in Parliament they should back it up with facts,
and I am backing it up with facts because it is not my words – I am talking about the policy of a
Government, not whether an individual person, whether he is the Chief Minister or the backbencher, tells
the truth or does not tell the truth. I suppose none of us are a hundred per cent truthful a hundred per cent of
495 the time. That is not the issue. I am talking about the credibility of a party that is going to an election this
year and making electoral promises. And if they make an electoral promise saying, ‘I’m going to put a new
system in if you get me elected,’ and there is not a shred of evidence that they were going to do it, well,
what do you call that?

500 **Mr Speaker:** Well, I would say that political credibility is not the same as telling a personal a lie in
Parliament. The two are different and therefore, to that extent, if that is what he has in mind then I think that
that amounts to a withdrawal of the word ‘lie’ as applicable directly to the Hon. the Leader of the
Opposition – (*Interjection*) the hon. the former Chief Minister.

505 **Hon. J J Bossano:** Yes, but I am not withdrawing anything, Mr Speaker, let’s be clear. If, in order to
make it consistent with the ruling, I have to move an amendment to include him in the motion, I will,
because as far as I am concerned it is not about him, it is about the party; it is about the party in
Government. The Government of Gibraltar, the person who stands up for the Government of Gibraltar
today is my friend Fabian and he will stand up and say something and say, ‘This is what the Government
510 policy is,’ and that Government policy he is saying in the name of all of us. And if what he is saying is not
true is not true and, all of us are equally guilty. This is not about a person telling a lie; this is about a
Government openly, deliberately and unquestionably saying things in Parliament which are not true – not
even misleading: not true. Because they say there is £60 million and I can prove today that when they said
there was £60 million there was not £60 million, because they say, ‘We are monitoring it closely,’ and I can
515 prove that that Government was not monitoring it closely.

Mr Speaker: It is a fact of political life that Governments, even in democracies, are very often
economical with the truth, and the years go by and then we find out that that is the case. But that is not the
same as deliberately uttering a lie here in Parliament. That is not the same.

520 **Hon. D A Feetham:** I would urge Mr Speaker to be careful here because Mr Speaker, I think,
inadvertently I have to say, is now descending into the political arena. In order to try and get the Hon. the
Father of the House out of a procedural hole because he has a lot of affection for him, he is now trying to
give him the political out, which is the GSD Government was economical with the truth. Well, look, that is
525 not accepted on my part.

Mr Speaker: I have not said that the – (*Interjection by Hon. D A Feetham*) I said that there have been
many instances throughout... I can recall myself being in Government and things being said by Ministers,
by the Chief Minister of the day, which would not stand 100% investigation – because that is politics and it
530 is a fact of life.

Look, you can say somebody is politically corrupt – and it happened in the case of Mr Damon Bossino in the Budget of July 2012 – and that is not the same as saying somebody is corrupt. You can say here a Minister is not to be trusted in a political sense, in a parliamentary sense, and it is not the same as outside in the street saying, ‘This person is not to be trusted.’ It is not the same, that is clear. This is what I am saying about the context in which...

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Now if the hon. the Leader of the Opposition wants me to name Mr Bossano – is that what...? Or that I should chastise him further... I am trying... Yes, I am trying to give him a way out, because he has been here over 40-something years. I know how obstinate people in our generation can be. As we get on in life we can be *very*, very obstinate, and I do not want to have another unsavoury incident two or three days after... I thought we had had enough recently.

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Hon. D A Feetham: Mr Speaker, nobody wants an unsavoury incident. I have just seen that Mr Speaker has made a comment which could be misinterpreted and I have just pointed out that it could be misinterpreted.

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I really do not want to have a situation where every session of Parliament turns into exchanges with the Speaker turned into a central aspect of proceedings; I really do not want that to happen, Mr Speaker. All I have said is that perhaps you have made a comment that could have possibly been misconstrued and I was just pointing that out, Mr Speaker.

Of course nobody wants to have these exchanges about lying. The hon. Gentleman could just simply withdraw, but he seems determined to continue and continue. And of course I pointed out that Rule 45.12 basically provides even if he were to want to move an amendment, he can move an amendment, but my understanding of this is in this particular case he has got to give notice as well, and the hon. the backbencher would have to be here in order to be able to defend himself. Or are we going to have effectively – (*Interjection*) Or are we going to have a motion without notice effectively questioning the conduct of an MP without notice and with that MP not being here?

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A Member: He has chosen not to be here.

Mr Speaker: The Hon. the Chief Minister.

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Hon. Chief Minister: Mr Speaker, as Leader of the House and trying, insofar as is possible in this situation, not to be partisan, and trying to do a bit of what you are trying to do, which is to give both parties an opportunity here to stand by what they believe, I think what Mr Bossano is saying, without getting into the substance of it, is that when statement A is made and later statement B is made, both of those cannot be true, and perhaps to say that one of the statements that was made – either the first one, to preserve reserves at a particular rate; or the second one, that there was never any intention to preserve reserves – was, one of those was not true is parliamentary language and is a way of dealing with the subject.

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Alternatively, Mr Speaker, if Mr Bossano goes on to say that what he said was actually the preamble to moving an amendment to the motion which includes that wording, then he would be speaking on a substantive motion, which is the amended motion, and would therefore avoid being in conflict with the rules, subject of course to the fact that it is true that the hon. the backbencher is not here, but notice of this motion has been given for some time and an amendment to an existing motion is an amendment that can be made without notice.

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However, I would invite both Mr Bossano and Mr Feetham to accept that the possibility is to say that on the occasions that those statements were made, on one of those occasions at least one of those statements had to be untrue, and therefore other people can then reach the conclusions that the ‘L’ word applies if they wish.

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Mr Speaker: On the question of amending a motion, I have never known in all the years when I was a Member of the House that a motion was moved by the original mover during the course of his right to reply when he is making his winding up speech. It has never happened, but we can check the rules and see what the rules say about amendments. That is Rule 21: ‘Manner of debating motions and amendments thereto.’

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Hon. D A Feetham: Well, Mr Speaker it is 45.12, and 45.12 says that –

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Mr Speaker: No, that is another one.

Hon. D A Feetham: No, that is what he wants to do; he wants to question the conduct. Basically what that says is that you cannot question the conduct of a Member of Parliament ‘except upon a specific substantive motion moved for that purpose’. Mr Speaker, it is here:

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‘and in any amendment, question to a Member or remarks in debate on a motion dealing with any other subject or reference to the conduct of the persons aforesaid shall be out of order.’

My reading of that is that you cannot amend a motion in order to... effectively turning it on its head into a substantive motion questioning the conduct of a Member. You have got to bring a separate motion. That is my reading of this and it flows from the wording:

‘except upon a specific substantive motion... and in any amendment, question to a Member or remarks in a debate on a motion dealing with any other subject any reference to the conduct of the person... shall be out of order.’

595 **Hon. Chief Minister:** Mr Speaker, you have already ruled in that respect when the hon. Member did not like an amendment I was making to a motion about him. That is not the correct interpretation, as you ruled at the time.

Motions under Standing Order 20, Mr Speaker, are said to be possible to be amended by way... A motion which does not require notice is a motion which is being amended when it is being debated in the Parliament. There is no statement as to when, in the course of that debate of the motion, the amendment can
600 be brought. I think that is not something that is provided for, and therefore it must be proper to allow the amendment at this stage as well.

In any event, Mr Speaker, the hon. Member has not yet heard the proposed amendment. He has gone on about it not being possible to call into question the conduct of a particular Member, but a motion could be amended to call into question the conduct of the GSD Government, for example, which is not to call into
605 question the conduct of a specific Member – although given what we are hearing about collective responsibility it seems there was only one Member in the GSD Government at any particular time. *(Laughter)* But the rules, Mr Speaker, do not prevent such an amendment being moved at this stage, and I think if I can call Mr Speaker’s attention to the type of debate which is less acrimonious, when the House is trying to agree something often amendments are made, even when the mover is replying, to try and get to
610 the motion that the whole House can support. In that sort of attempt to work together and have a motion that is supported unanimously I have seen amendments moved during the course of a reply. This is in a more combative procedure, but there is nothing in the rules that prevents that.

Mr Speaker: That is why I say in over 20 years membership in this House I can never recall an instance where an amendment was moved by the mover during exercising his right to reply, and I remain to be convinced – and I am not, after a cursory glance at the rules – I remain to be convinced that that is within
615 the rules, because I have never seen it happen.

Hon. Chief Minister: Mr Speaker, can I ask you in this respect, in respect of such a ruling, to point to any part of the rules that prevent it, because if the rules do not prevent it then we are in the territory where simply recollection is not precedent.
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Mr Speaker: Logic demands that once the mover is exercising his right to reply, that is going to be the end of the debate, and now he raises... He himself brings up an amendment to his motion, when all the other Members have spoken beforehand and now they no longer have an opportunity.
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Hon. Chief Minister: No, Mr Speaker, you would be absolutely right if that were the situation, but there is of course the right of every Member now to speak on the amendment.

630 **Mr Speaker:** Yes.

Hon. Chief Minister: So once the amendment is moved it is not as if we then go immediately on to vote on the substantive motion as amended. We then go on to a debate on the amendment, and therefore Members will be able to speak on the amendment should they so wish.
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Mr Speaker: I think I would have to take advice. I will have to perhaps consult *Erskine May* or maybe even the Office of the Clerk in the House of Commons before I allow him that, as I say.

But I think it is a pity that... We were making progress this afternoon in what was a very sober, interesting debate, and the matter is turned on its head because of an unfortunate word. I am trying to avoid
640 that this should happen in Parliament, but I do not seem to have been, of late, born under a lucky star.

Hon. Chief Minister: With respect, Mr Speaker, I am the first one to think that you are absolutely right to try and bring temperance to this place and the first person to stand on behalf of all of us here to say that we should reflect on the statement that you made last time. But a Parliament is a place to parlay and to debate and debate sometimes requires disagreement, and disagreement must sometimes be robust; and
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robust disagreement, when it is based on the sort of debates that we have heard Mr Bossano present, should not be something that scares any of us, nor indeed the public. This is not a debate that is being conducted in any way that is anything other than entirely proper, and the only issue is whether one word has been used in this debate which is appropriate or not, and Mr Bossano's position is, as I think he has explained more than
650 adequately himself, that in the circumstances he thinks it is appropriate and wishes to use the parliamentary devices that are available to him in order to be able to deploy that wording.

If Mr Speaker thinks that, despite that, the procedure which is being put to him should be followed so that the House can, not *allow* Mr Bossano to use that language but *debate* the use by Mr Bossano of that language, because then the House will be able to consider that, that is of course a matter for Mr Speaker,
655 and Mr Speaker knows that on this side of the House we accept his rulings when we agree with them and we accept his rulings in particular when we do not agree with them, because that is what accepting the right of the referee must be about.

So, Mr Speaker, the matter is entirely one for you but I would ask Mr Speaker that he has raised an issue which I have never heard raised in this House. I think it will be possible to point to a number of motions
660 which have been amended during the course of the reply, whether in combative or non-combative motions, and that Mr Speaker must rule on that subject because I think it severely circumspects the ability for debate if we do not have a ruling from Mr Speaker on this. Not today necessarily, because Mr Speaker has indicated he will want to take advice not available immediately, but I think it is important for the House that we should have a ruling on that subject.

Mr Speaker: I was not here, of course, between 1992 and 2012. It may well have happened during those 20 years. I may well be wrong. It may well have happened during those 20 years and I am just not aware that it did, and therefore it is something that can be looked into and can be checked.

Hon. Chief Minister: Indeed, Mr Speaker, actually I am just shown by Dr Garcia and Mr Costa that the answer actually lies in 21.3, and 21.3 is actually explicit. It says:

‘Any amendment to the motion which a Member wishes to propose in accordance with the provisions of Standing Orders 23 and 24’

– which deals with amendments and amendments in writing –

‘may be moved at any time’

– at *any time*, specific wording –

‘after the question upon the motion has been proposed by the Speaker and’

– and these are the words that I think deal with Mr Speaker's point –

‘before it has been put by the Speaker at the conclusion of the debate upon the motion.’

The conclusion of the debate upon the motion has not yet been reached, and therefore, Mr Speaker, Standing Order 21.3 engages and Mr Bossano is able to move the amendment.

Mr Speaker: But then 24 says:

‘Any amendment may be required by the Speaker to be put into writing by the mover and delivered to the Clerk.’

Hon. Chief Minister: Yes, Mr Speaker, and we have a draft of it in writing ready for the Clerk to pick up.

Hon. D A Feetham: Mr Speaker, this is the point that I have attempted to consistently make in relation to this, because in relation to other types of motions I have been concerned about the practice of substituting effectively an entirely new motion for a new one, without notice, that catches people by surprise. And the way that the rules are structured, in my view, always gives the Speaker an element of discretion, the residual discretion to say, ‘Fine, I have got the written amendment but I require that you give notice.’

When one is dealing effectively with a substantive motion... I have not read it and I can only go by what the Hon. the Father of the House said his intentions were going to be, which was that there was going to be a substantive motion effectively calling into question the conduct of the hon. the backbencher.

A Member: No, it's not.

690 **Hon. D A Feetham:** Well, that was the position at that point. *(Interjection by the Hon. J J Bossano and laughter)* Yes, the Hon. the Father of the House says that I have lied! *(Laughter)* Okay, I take it from him without making any Point of Order.

The issue, Mr Speaker, is that on this question of notice and whether it requires notice, and whether Mr Speaker wants to, in the circumstances, say, ‘No, hang on a minute – I don’t want to deal with this on the hoof for *x*, *y* and *z* reason,’ that particular rule in Standing Orders actually gives Mr Speaker the discretion to say... not just writing, Mr Speaker, because it cannot just be a question of writing, so I just write the amendment out and that is the end of the matter; it is also about notice, because the writing is there to give notice to those who obviously have to debate this matter.

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700 So Mr Speaker is absolutely right that Mr Speaker does have a discretion in relation to this, but at the end of the day it is Mr Speaker’s decision as to whether... and I really do not want to waste any more time in relation to this because it appears to me that the other motion in relation to LNG is something that we ought to be debating and is something that is going to be thoroughly interesting, to say the least.

705 **Mr Speaker:** I think it is clear from what has emerged during the debate this afternoon, given what the Hon. Mr Bossano has said and what the Hon. the Leader of the Opposition has said, that perhaps it is not appropriate that it is the GSD in Opposition that should be condemned for having refused the information and it indeed is not appropriate that it is the present Leader of the Opposition who should be condemned for withholding information which he does not have, which we have been told he does not have and which nobody in any Government Department seems to have.

710 **Hon. Chief Minister:** Mr Speaker, with the very greatest of respect and summoning all of the collective respect that there is in this House for you, Mr Speaker, you have to be careful not to descend into the arena, and Mr Speaker has to be very careful not to form part of the debate of GSD or not GSD.

715 The Hon. the Leader of the Opposition has said that there is in the rules a residual discretion for you to require notice to be given. Mr Speaker, the rules are explicit: there is no issue of discretion and notice. This is a motion that can be amended without notice. This motion has been on the Order Paper for a month, or for three weeks. This motion was to be debated today, Mr Speaker, at the earliest.

720 If a motion is to be debated, then the possibility of amendments to it arise, including, as you ruled last time, Mr Speaker, the amendment of every word after ‘This House’ or even the words ‘This House’ to the very end. That has been the practice of this House for the 50 years that it has had its incarnation since it was a House of Assembly.

There is an amendment before the Chair, Mr Speaker. It is an amendment that is within the rules. There is no provision for notice and the House needs to get on and deal with this on the basis of the way it has done in its history and in accordance with its rules, Mr Speaker.

725 **Mr Speaker:** Let me have a look at the Rules and perhaps we might get more guidance.
Rule 20:

‘Motions not requiring notice.

Unless the Standing Orders otherwise direct, notice shall be given of any motion which it is proposed to make with the exception of the following-

(a) a motion by way of amendment to another motion being debated in the Parliament;’

That applies here. We are now debating another motion in Parliament and therefore an amendment can be made to it.

730 As I said, I have never experienced that it is made at such a late stage, but I do recall the Hon. the Chief Minister recently doing something similar in one case and I remember I queried it in my mind and I was told this has become the practice. It must have become the practice during the time that I had been away from this House. So on that basis it would seem that the Hon. Mr Bossano can move such an amendment.

735 **Mr Speaker:** Has the amendment been circulated? Do Members of the Opposition have the amendment? No, not yet.

In allowing the amendment, I also have to rule that an amendment to the amendment will also be allowed. I will also allow any Member to move an amendment to the amendment.

Now would the Hon. Mr Bossano then actually propose the amendment?

740 **Hon. J J Bossano:** Well, as I indicated in my previous intervention while you were considering the matter, Mr Speaker, the amendment to which I referred and which I now propose to move makes it clear that the issue is not about whether there was or there was not an alternative in place, because I accept that I have found no evidence of it. Members opposite may not have known any details about it. It was mentioned

745 and it is possible that the person who mentioned it did not share whatever he had in his mind with anybody else, and I do not think that constitutes any evidence of something being said that was not true – because in fact if one person does not share information with anybody else... well, then, nobody can know whether it is true or not.

750 But there is something, which is what I tried to draw a distinction... which is incontrovertible, and that is: was the commitment that was given in Parliament on behalf of the Government by whoever spoke – it is not the individual; nobody who was in the Government can say, ‘Well, I didn’t know that our policy was that we would let Community Care carry on paying.’ The GSD, Mr Speaker, took the credit for all the money that was paid to the pensioners for the 15 years they were there, as if they *were* giving money to the charity, and they were saying in Parliament that they were committed to making sure that the reserves were not touched.

755 Therefore, the amendment which I wish to move to the original motion is to add at the end the following words:

‘And therefore considers that the GSD Government was therefore lying in its statement suggesting it was preserving the reserves of Community Care of £60 million when in fact it later confirmed that it had been planning to run down those reserves to zero from day one.’

760 The confirmation has not come from the GSLP; the confirmation has come because there is documentary evidence that shows that on a certain date it was revealed that, contrary to what I had supposed, I had actually given the GSD the benefit of the doubt and I had actually assumed that they had taken a view in 2009 – and that is reflected in my original statement – that maybe something different should be done with Community Care, because at that point the charity had run out of money.

765 When I made that public the answer that was given was, ‘No, it was not by accident, it was not a question of not having given it money, but it was that it was always planned from day one that the point would be reached when the £60 million would run out and then, instead of continuing with the existing system, we will put something better in its place.’ Whether that something better was there or whether it was not there, whether they intended to do it or they did not intend to do it, the statement that there was a deliberate rundown can be tested against what happened – and what happened was in fact that there was a rundown. It is not that the charity went up and down on different years, which might have been the case – the Government may have had a very good year with a big surplus, which is what we are saying now. We are saying if the surplus is very big we will give more money, and if there is less money at the end of the year we will give less money, but what we will do is we will give the charity the money depending on how much money we have to spare after our recurrent expenditure has to be made.

770 If the position is on a number of occasions the Government of Gibraltar gives a solemn commitment in this House saying – beyond doubt, it is not possible to interpret it in any other way because it is repeated more than once – we are doing all sorts of things, we are even buying their investments from them to make sure they have got £60 million in cash, and that is a solemn promise; we are not going to give money when they do not need it, but they will never have to dip into their reserves.... They are saying that. And when what they are saying is one thing and what they are doing is another thing, then there is only one way of describing it.

780 It may be unparliamentary – it is not a nice thing to say of any organisation or any institution, but in fact when in the House of Commons people are seen not to be telling the truth in Parliament, they are held to account for not telling the truth. It seems that somehow here it is considered less of an evil to say somebody is not telling the truth than to actually not tell the truth. Well look, the truth in Parliament is serious, because if Governments... if we come here, look... My hon. colleague inadvertently gave the wrong information in the House and he has just come today to put it right. Why? Because otherwise it could be said he had been lying and giving unemployment figures that were not correct. Therefore, when you say something and it turns out that you had got it wrong, you come back and you put it right and put the record straight.

785 But of course if I have been able to demonstrate that on the very dates that they were saying, ‘We are preserving the £60 million,’ the £60 million was already not there, it was already below £60 million... Way back in 1999 it was already at £57 million and therefore the only conclusion is that this is not an issue about an individual and this is not a censure motion about that individual who is not here; this is about the conduct of a Government in Parliament in not telling the Parliament the truth of what it was they were doing and revealing it 14 years after the event and saying, ‘This is what we were doing throughout,’ and in fact the evidence that we now have, showing that in fact it was true, that is what they were doing. So what they were doing was one thing and what they were saying was another, and therefore they were lying in Parliament and I move that the amendment be supported so that we tell the truth this time and the record shows what was really happening.

800 **Mr Speaker:** Given that the hon. Member has said that he is prepared to give, he has given the GSD Government the benefit of the doubt, he might be equally generous and delete the word 'lying' and substitute for it some other word, such as 'was therefore incorrect in its statement' or 'was therefore not accurate in its statement'. I will not propose this question with the word 'lying'.

805 **Hon. J J Bossano:** Yes, but Mr Speaker, look, I believe –

Mr Speaker: I am now ruling that it is unparliamentary –

Hon. J J Bossano: You are ruling –

810 **Mr Speaker:** I am ruling it is unparliamentary. I will not propose the question with the word 'lying'. I require that it be amended by a word that is parliamentary, such as 'accurate', 'incorrect', or something to that effect, and then I am being consistent in doing my job as Speaker, which I have a right to do, as I have told hon. Members previously.

815 **Hon. J J Bossano:** But Mr Speaker, if an hon. Member comes here and gives an incorrect number, then that Member is giving incorrect information. If a Member comes here and says something that is not true, knowing that it is not true, then I do not know what you call it and why you think to say –

820 **Mr Speaker:** What I call it is a sense of justice in that the Member is not here to defend himself.

Hon. J J Bossano: But, Mr Speaker, the amendment does not mention a Member. I am saying the Government of Gibraltar was not telling the truth in Parliament.

825 **Mr Speaker:** But I am ruling that that word is unparliamentary, and if he does not withdraw it I will suspend the session.

Hon. J J Bossano: Well, Mr Speaker, then are you saying that I cannot say they were not telling the truth?

830 **Mr Speaker:** You can use some other word which may amount to a similar word – (*Interjection by the Hon. J J Bossano*) I am not having the word 'lying' in a substantive motion of this Parliament in a session over which I am presiding. I am just not having it.

835 **Hon. J J Bossano:** Are you saying, Mr Speaker, that there is now a new rule that I cannot give notice and bring a new motion that says anything about –

840 **Mr Speaker:** I am saying that the word 'lying' is unparliamentary and I will not allow it in a substantive motion before the Parliament over which I am presiding. If he does not want to accept that, the Government can bring a motion –

Hon. J J Bossano: No, no, I want to understand –

845 **Mr Speaker:** The Government can bring a motion against me, and I will then go home and that is the end of the matter.

Hon. J J Bossano: Well, yes, I may want to do that, but that is not the issue.

Mr Speaker: Go ahead and do it! (*Several Members: Ooh!*) Go ahead and do it. Go ahead and do it.

850 **Hon. J J Bossano:** Mr Speaker, I am not saying that I am going to do it; I am saying I *may* well want to do it. But wanting to do it and doing it are two different things.

Mr Speaker: Not that I am going to go home, but that I *may* go home.

855 **Hon. J J Bossano:** Right. What I am asking, Mr Speaker, for clarification on your ruling. Is it that you are saying that under no circumstances a motion can be brought to this House which includes the word 'lying'. Is that what you saying?

Mr Speaker: Not whilst I am the Speaker of this Parliament.

860 **Hon. J J Bossano:** Okay, then, Mr Speaker, are you satisfied with the words ‘not telling the truth’?

Mr Speaker: No.

865 **Hon. J J Bossano:** No.

Mr Speaker: I am satisfied with ‘was therefore not correct in its statement’, or ‘was not accurate’, but ‘not telling the truth’ amounts, it’s the same as ‘lying’.

870 **A Member:** Deliberately misleading.

Hon. J J Bossano: Deliberately misleading?

Mr Speaker: No.

875 **Hon. J J Bossano:** The freedom of speech in this Parliament gets better by the minute, Mr Speaker!

Mr Speaker: Well, the freedom of speech is curtailed, whether Members like it or not, by the rules. [Hon. J J Bossano: Yes.] And they have asked me to and I have to interpret the rules. People do not like it. I am getting anonymous letters accusing me, but it is a fact of life. They may not like it. But freedom of speech is one thing, but there is a law and there are rules, surely.

880 My job is to implement the rules and it is a well laid-down fact of life that the word ‘lying’ is not acceptable. It is unparliamentary. It is unparliamentary when used in a speech; even much more so is it unparliamentary when contained in a motion.

885 **Hon. Chief Minister:** Mr Speaker, I think that we need to reflect on the rules to understand what they are there for and what has been built up over centuries as parliamentary debating procedure. And the procedure, which I do not have to hand but is well known to every parliamentarian, is that you cannot use the word ‘lie’ or say that somebody is lying other than in a substantive motion.

890 Mr Speaker, this is a substantive motion and therefore it is with the very greatest of respect that the Government needs to consider your ruling, not for our sake and for today but for the sake of the Parliament and the right of all Members on both sides of the House at any stage to avail themselves of the rules as they have been established over centuries, not just in this place but in other Parliaments which we take guidance from. Because I think we have to preserve – and I have to preserve not just for the Government but for all Members – the right to use language which is otherwise unparliamentary in a motion, which is what makes it parliamentary, because the rule has always been that you cannot say that somebody is lying or that there is a lie other than in a substantive motion.

895 Now, Mr Speaker, trying to avoid, all of us who have such a high regard for each other, finding ourselves in conflict, can I propose Mr Speaker, that –

900 **Mr Speaker:** Can I propose that I be shown evidence of the fact –

Hon. Chief Minister: No, Mr Speaker, can I –

905 **Mr Speaker:** – that the word ‘lying’ can be used because it is being used in other Parliaments? I have never seen that happen.

Hon. Chief Minister: Alright, Mr Speaker, we will –

910 **Mr Speaker:** And because I do not know that that is the practice, I cannot but rule the way that I am ruling –

Hon. Chief Minister: Well, Mr Speaker, the practice –

915 **Mr Speaker:** – given that I am being required here and now to make rulings, it is not a question of going away and coming in four or five days’ time when one has had an opportunity to try and find out what the position is.

920 **Hon. Chief Minister:** Mr Speaker, you are among the most experienced Speakers that this Parliament has had, not by dint of your period as Speaker but by dint of your service to this community as a *Member* of this House. And if you have not come across that principle, I will of course make it available to you in the

context of dealing with this issue, not for today but for the future, because it is very important that there should not be a ruling on the books of this House which somehow curtails the right of Members of this House, to express themselves in a way that Members of other similar houses are able to express themselves on substantive motions.

925 But can I propose, Mr Speaker, in an attempt to ensure that old parliamentary colleagues such as you and Mr Bossano, for whom I have, for both, such equally high regard, do not find yourselves at loggerheads for any longer, that we recess for five minutes and that we have an opportunity of considering the language of the motion in a way that might enable us all to feel that we have achieved what we each respectively have to achieve and what the taxpayer expects from all of us, and that the House do now recess for five
930 minutes?

Mr Speaker: Yes, thank you, the House had better recess and we have a cup of coffee.

The House recessed at 1.23 p.m. and resumed its sitting at 3.03 p.m.

**Community Care –
GSD proposals for replacement –
Debate concluded; amended motion carried**

Chief Minister (Hon. F R Picardo): Mr Speaker –

935 **Mr Speaker:** The Hon. Mr Bossano.

Hon. Chief Minister: Well, I believe, Mr Speaker, it is an opportunity to reflect that the recess has allowed an opportunity for the Government to consider the amendment, to consider the issue with you.

940 I am delighted that there is an element of white smoke, if I can call it that, in respect of the amendment and to I think reflect that there is such deep affection between Members of this House – in particular you and Mr Bossano, who are the same age and have served here for so long – that I do worry, Mr Speaker, that one day perhaps the Leader of the Opposition and I might feel so deeply and so affectionately for each other 40 years from now. But it is very salutary to see that we have been able to progress.

945 **Hon. J J Bossano:** Mr Speaker, the amendment that I am moving has been redrafted so that it now reads:

‘and therefore considers that the GSD Government was deliberately providing incorrect information in its statements suggesting it was preserving the reserves of Community Care at £60 million when in fact it later confirmed that it had been planning to run down the same reserves to zero from day one’.

Mr Speaker, the evidence in support is in my original opening statement, which, as I explained when I opened on this motion, shows that there was a consequential decline from 1997 onwards. That is to say the reserves went up actually in 1997, simply because investment income was high enough to cover the benefits
950 paid to entitled persons and there was money left over. But since no money was put in in the first term, by the end of the first term it was already lower than it was in 1996 and it is impossible for the Government not to have known this, given that they made a statement at a later date, in 2001, that they were closely monitoring the situation to make sure that what was actually happening did not happen. They were telling us they were taking effective, preventative measures, redeeming the debt that was held by the charity which
955 was in fact quoted in the London Stock Exchange, which was Gibraltar Government debt that was trading in London above its par value, and the Government was buying that debt from the charity at the rate that it was selling in the market, so that it would not be redeemed on the maturity date where the value would have been less. And it was saying to us in Parliament this was being done in furtherance of the policy that they would not need to touch the £60 million. That information was not correct.

960 They were buying those things but it was not so that the reserves would be kept intact; it was simply because they were, in effect, doing the very opposite. It was because the assets were being sold in order to pay the benefits, in order to pay the costs. It was only in 2003 that anything happened that was different and then, immediately after 2004, the decline continued and it was only when the reserves reached zero, which was in February 2010, that we had the Government openly explaining that, contrary to what I had believed,
965 that this had not happened as a deliberate policy, it was a deliberate policy and that the deliberate policy that the House was told was being followed was not true. It was incorrect information we were given and therefore we believe it is opportune to reflect this in the motion in a way which is consistent with the rules of the Parliament.

970 I commend the amendment.

Mr Speaker: I now propose the amendment in the terms moved by the Hon. Mr Bossano, and of course all hon. Members are able to contribute, are able to speak about the amendment.

If no-one wishes to do so, I will put the amendment, which reads:

*That the following words be added as the last paragraph of the motion as follows:
'and therefore considers that the GSD Government was deliberately providing incorrect information in its statements, suggesting it was preserving the reserves of Community Care at £60 million when it in fact later confirmed that it had been planning to run down those same reserves to zero from day one'.*

975 All in favour? (**Several Members:** Aye.) Against? (**Two Members:** Aye.) The amendment is carried.

I will now put the motion as amended to the vote. All those in favour? (**Several Members:** Aye.) Against? (**Some Members:** Aye.) The motion is carried.

ADJOURNMENT

980 **Chief Minister (Hon. F R Picardo):** Mr Speaker, I move that the House do now adjourn to Thursday at 11.00 a.m.

Mr Speaker: I now propose that the House do now adjourn to Thursday at 11.00 a.m.

985 I now put the question that the House do now adjourn until Thursday at 11.00 a.m. Those in favour? (**Members:** Aye.) Against? Carried. The House will adjourn until Thursday at eleven in the morning.

The House adjourned at 5.55 p.m.