



PROCEEDINGS OF THE GIBRALTAR PARLIAMENT

AFTERNOON SESSION: 5.00 p.m. – 2.10 a.m.

Gibraltar, Wednesday, 1st April 2015

Business transacted

Tribute to the late Solomon Seruya	2
Order of the Day	3
Statements by Hon. Daniel Feetham – Misleading the House – Motion carried/lost	3
Hon. Daniel Feetham – ‘In Touch’ magazine; misleading statements and arguments – Motion carried	22
<i>The House recessed at 8.45 p.m. and resumed its sitting at 9.05 p.m.</i>	36
PRIVATE MEMBER’S MOTION.....	36
Report of the Dr Giraldi Home Inquiry – To note the findings of the Report – Motion carried/lost.....	36
Adjournment.....	83
<i>The House adjourned at 2.10 a.m.</i>	84

The Gibraltar Parliament

The Parliament met at 5.00 p.m.

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

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

Tribute to the late Solomon Seruya

Clerk: Mr Speaker.

Mr Speaker: The House is going to hold a minute's silence as a tribute to the late Solomon Seruya, who, of course, graced this Chamber with his eloquence for very many years.

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Members stood in silence.

Mr Speaker: Chief Minister.

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Chief Minister (Hon. F R Picardo): Mr Speaker, people may ask themselves why it is that we held a minute's silence that might be beyond just the fact that Solomon Seruya had been a member of the predecessor of this Parliament. He was, of course, a Member of the House in the 1960s, but he was much more than that. He is also the Father of the Alameda Open Air Theatre, the Patron of the development of the Piazza. He became a Consul of the great state of Israel and President of the Chamber of Commerce when he returned to Gibraltar. A great Gibraltarian entrepreneur, a friend to all, whether or not he might

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have agreed with you politically – therein lies a lesson for many of us.

But, Mr Speaker, apart from all of those, Solomon Seruya is also in my mind to be remembered for another reason. He was the first person, I believe, who spoke out, either in this House or outside it, suggesting that in order to properly promote the tourist product in Gibraltar, and in particular those who might want to visit us from Spain, there should be on the eastern side of Gibraltar a marina so that people who wanted to come in their yachts to see the Rock or to shop on the Rock did not have to go round the Europa Point, which might get a little rough even on days when either the Bay of Gibraltar or the Mediterranean might look calm.

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Mr Speaker, the Government expects that it will be possible for us to develop out the East Side reclamation into an area of housing and of general public amenity and that in that development, in common with the views of the previous Administration and the Administration before that... the GSLP Administration that started that reclamation – that there should be a marina in that area which will fulfil the vision originally put in Gibraltar by Solomon Seruya.

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And I trust that by acclamation in this House, without needing for one moment to put this to a vote, the House will agree that on that East Side development there should be a fitting tribute, perhaps a road or some other fitting tribute named after our friend Sol.

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

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Hon. D A Feetham: Mr Speaker, may I say without hesitation that I associate myself entirely with the words of the Chief Minister. He has used the words 'our friend' and indeed he was a friend to many of us. I think that his suggestion of having or naming a street or something else after Sol is a fitting tribute indeed and one that will enjoy the wholehearted support of this House.

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Mr Speaker, I have very fond personal memories of Sol Seruya. I remember, Mr Speaker, in 2000 giving a speech in the Casino Calpe, where he was present, and then going afterwards to Sol and saying, 'Sol, how did you think that I did?' and he said to me "*No eres 'El Juli' pero eres novillero de carta*". That is what he said to me and it will always stay in my mind. Those comments will always stay with me, putting me in my place, but at the same time some encouragement for the future. That, I think, was Sol and we always had a laugh when I used to remind him about what he said to me on that evening 15 years ago.

45 But, Mr Speaker, I think we must not also forget that Sol was one of those politicians who stood for something. Throughout his career, indeed throughout his entire life, he advocated dialogue with Spain and he advocated good relations with Spain whatever the political climate may have been. Whether the people of Gibraltar at that stage, the political climate was such that they may have been receptive or non-receptive to that message, Sol Seruya was one of those individuals who was a conviction politician, a conviction individual and he always stuck to that message.

50 So, Mr Speaker, on behalf of the Opposition I have no hesitation in paying Mr Seruya the highest possible tribute. (*Banging on desks*)

Hon. Sir P R Caruana: Mr Speaker, associating myself with the words of both the Hon. the Chief Minister and the Hon. the Leader of the Opposition, may I really – harking back to my days in my previous job – add my own words of tribute to Sol?

Sol was not a person that you could always agree with, if for no other reason than his thinking was always so much more brave and so much more advanced, in the sense of vision, than certainly where public opinion was and probably where the political representatives of that public opinion were as well, and therefore it was sometimes not possible to agree with him.

60 Nevertheless I can tell this House that throughout my 16 years as Chief Minister I often sought and often heeded Sol's advice, not just on matters of commercial policy, but importantly on matters of foreign policy, in terms of the handling of Gibraltar's relations with the United Kingdom and with Spain. I very frequently sought that advice. He always gave it with clarity of thought, even when he knew I might not agree with it and even when he knew that I might have difficulty implementing his advice. He was throughout all my years as Chief Minister a frequent source of advice and influence.

70 And as the Leader of the Opposition said, he was always brave in his public statements of opinion, even when his views did not chime with the popular or the safely consensually held views of the majority of Gibraltarians, Sol almost always to his vision of what was in Gibraltar's short, medium and long-term interests – never shied from expressing views that he thought and knew would not be popular. I think that is a mark of a brave and opinion-forming citizen and I think that would be, probably in terms of his public life, what he will be rightly most remembered for.

75 I think Sol was a great Gibraltarian. He was a great Gibraltarian businessman. He was a great Gibraltarian politician. He was a great Gibraltarian citizen. He was a great Gibraltarian opinion former, and of course very often one has to wait until after one has passed, hopefully to better places, before all these things are recognised and said of you and I think it is right that that should be so. But for all his contributions to so many aspects of life in Gibraltar, I think it is right that this House is today recognising Sol in this way and from my seat here in Parliament I would extend publicly my sincere condolences to his daughter and the other remaining members of his family. (*Banging on desks*)

80 **Hon. Chief Minister:** Mr Speaker, it is clear that the House is unanimous in the view that there should be a tribute to Solomon Seruya on the East Side and to take from the Letters pages of the *Chronicle* many years ago from his old '*compinche*' a phrase that stuck in my mind when he left the Presidency of the Chamber of Commerce. '*Se va el Sol, pero*, we will always remember him on the East Side where he had the vision to think there should be a marina.'

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Order of the Day

Statements by Hon. Daniel Feetham – Misleading the House – Motion carried/lost

Clerk: Government business, Government motions, the Hon. the Chief Minister.

Chief Minister (Hon. F R Picardo): Mr Speaker, speaking of bullfighting, I have the honour to move that the motion standing in my name, which reads as follows:

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'This House notes:

*Statements by the Hon. Daniel Feetham at the beginning of the House for questions on Thursday 19th March 2015 on the Sunborn floating hotel that he was not aware that the law firm of which he is a partner, Hassans, were solicitors for the operators of the Sunborn floating hotel; and
The content of exchanges in press releases in the past which disclosed that fact explicitly, namely Government Press Releases 483, 487 and 536 of 2013;
AND THEREFORE considers that Mr Feetham clearly misled the House when he stated that he was not aware that the law firm of which he is a partner, namely Hassans, were solicitors for the operators of the Sunborn floating hotel.'*

Mr Speaker, I gave notice of this motion at the time of the Question Time to which I refer in it. There was a heated exchange in this Parliament on the subject and hon. Members will know that during the course of that I disclosed that I was also a partner on sabbatical of that firm, Mr Speaker, and referred to these press releases.

Mr Speaker, I invited the hon. Gentleman at the time when I disclosed to him that the press releases referred him and the general public to the fact that Hassans were the solicitors for the Sunborn floating hotel, that there was no question therefore that he could not know that his firm represented this particular counter party in respect of the borrowing from Credit Finance Company Ltd. I told him, Mr Speaker, that if he simply told us that he had forgotten or that he had spoken in haste, I would be quite happy not to proceed to bring a motion and he did not take my invitation at the time. If he were to ask me to give way and say any of those things, I would happily withdraw the motion, but he does not, Mr Speaker. Therefore, I want to proceed with this motion on the basis, Mr Speaker, that what we have set out in it is absolutely and abundantly clear.

Mr Speaker, let us look at the terms of the press releases that are referred to in the text of this motion. Mr Speaker, Press Release 483/2013 makes clear that the Sunborn floating hotel, which was the subject then being debated in Parliament in 2013, was an issue that Mr Feetham should declare an interest in, because his firm were representing them. In fact, in the quote attributed to me in that press release, the press release reads as follows:

'I am happy to confirm that the position is exactly as I have previously set out in Parliament. There is nothing whatsoever to clarify.'

In fact if Mr Feetham is so concerned about the fantastic five star Sunborn Hotel, perhaps he should note that the firm that represents them is Hassans, of which he is a partner. The public may find that surprising, given how negative Mr Feetham seems to be about his own client's project, to bring – it has now brought, Mr Speaker – this fantastic five star hotel to Gibraltar.

Press release 487/2013, Mr Speaker, again sets that out explicitly, Mr Speaker. The press release reads in its fifth paragraph, as follows:

'What is entirely ridiculous, however, is Mr Feetham's suggestion that Mr Picardo's reference to the fact that the Sunborn is a client of Hassans is somehow an attempt to put pressure on him.'

In fact, Mr Speaker, it then goes on to talk about instances where I was the subject or the butt of criticism in this House by the former Leader of the House, when matters related to Hassans were debated in this House.

Finally, Mr Speaker, although there are many other such press releases and exchanges, press release 536/2013 also explicitly makes a reference to Hassans. In the second paragraph in the third sentence, it reads as follows:

'In fact the status of the Savings Bank, which is not a credit institution in EU law, is based on advice given to the GSD when they were in Government in the late 1990s by his own law firm, Hassans.'

This again, and the reference to 'again' is the reference to the fact that the reference had been made in previous press releases in relation to the Sunborn creates professional issues of conflict for Mr Feetham and his firm. And, Mr Speaker, there I gave notice that I was going to move a motion demonstrating that the Hon. the Leader of the Opposition had misled the Parliament then, something which I did not do, Mr Speaker, because frankly I did not want to put the Parliament to the time of having to deal with these issues. But now that Mr Feetham once again misleads the Parliament, I believe it is important to correct the record.

Mr Speaker, it is therefore abundantly clear when the hon. Member said that he did not know that Hassans represented the Sunborn floating hotel that he was in fact misleading the House. Mr Speaker, the

145 first supplementary that the Hon. the Leader of the Opposition took when he was asking me the questions that led to this exchange was a question that dealt with the issue of the Certificate of Fitness, and the questions that he asked, Mr Speaker, in particular Questions 271... in fact Questions 270, 271 and 272 all relate to the issue of the borrowings of the Sunborn floating hotel and they were all being taken together.

150 Mr Speaker, when I alerted the hon. Member to the fact that Hassans were the solicitors for the Sunborn, he told me that I knew more about the business of Hassans than he did and all the rest of it. He said some quite scandalous things during the course of those exchanges about what he felt about and what he cared about the clients of Hassans. He told me that he would take my word for the fact that Hassans are somehow involved with the Sunborn floating hotel to the extent that it is so. He then said that he had no problem declaring that interest, but, Mr Speaker, he did not accept that he had known this. He then went on to say that he did not know perhaps that Hassans were acting in relation to those matters. Well, Mr Speaker, 155 those matters could only have been a reference to Questions, 270, 271 and 272 and 266, 267, 268 and 269, and therefore, Mr Speaker, he cannot pretend not to have known that the subject on which he was asking questions included the very subject which had caused the press releases to be issued in 2013 and that therefore, Mr Speaker, he certainly did know that Hassans were acting on behalf of the Sunborn.

160 He said in particular this phrase, Mr Speaker:

‘He appears to know more about the business of Hassans than I do. I was certainly not aware that Hassans had been advising the Sunborn floating hotel in relation to these particular issues if that is what he is suggesting.’

165 But, Mr Speaker, it is very clear that the issues that he was dealing with include the issues of the loans which he was trying to seek more information on, information, Mr Speaker that the Government has already made its position very clear about.

And so, Mr Speaker, I invite the House to support the Government motion and find that Mr Feetham misled the House.

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

Hon. D A Feetham: Mr Speaker, so many motions, Mr Speaker, and just for me.

175 Mr Speaker, anyone listening to these debates would be forgiven for thinking that the hon. Gentleman has got it in for me. Indeed, Mr Speaker, on Saturday morning walking down Main Street, a lady came up to me and said, ‘Good luck, Mr Feetham, on your debate on the three motions on Monday. That Mr Picardo doesn’t seem to like you very much, does he?’ I said, ‘Nonsense. It is a love-hate relationship’. (*Interjection*) Exactly, and then I remembered the hon. Gentleman’s words to my wife when she made a similar statement to him. The love is yet to come, Mr Speaker. That was the statement that he made.

180 Mr Speaker, it certainly was not a statement of intent as to any future platonic relationship between the hon. Gentleman and myself, Mr Speaker. And for the avoidance of any doubt, Mr Speaker, it certainly was not a statement of intent as to any sort of civil partnership between us in the future. I thought that I might get that one in, Mr Speaker, now that the rainbow flag flies so proudly over No.6 Convent Place. Rightly, I should say, because of course on this side of the House we are very much in favour of equality too, Mr Speaker.

185 But, Mr Speaker, it was meant in the sense of ‘*ni el microfono te traga*’ which were the words that he uttered to me across the floor of the House from a sedentary position, because my microphone broke down during a Question and Answer session about a week and a half ago and it is very sad, Mr Speaker. It is sad. It is sad, Mr Speaker, because the hon. Gentleman does not appear to be able to break away from the sterile politics of the personal and the personalised, Mr Speaker. (**A Member:** Hear, hear.) (*Banging on desks*)

190 It is sad, Mr Speaker, because this motion, as indeed the next motion, is a blatant attempt to drown the Dr Giraldi motion in a sea of news, Mr Speaker, and for that motion to be heard at eight o’clock tonight, because of course it is going to take some time for us to deal with his two motions. Mr Speaker, it is sad because it takes the ground from underneath, Mr Speaker, who on many occasions in this House has said to both sides of the House, and certainly the Opposition, that we ought to debate important issues of the day. If 195 we are going to be met with this kind of filibustering tactic when we present a motion on the Dr Giraldi Home... as important, Mr Speaker, as the Dr Giraldi Home is going to be met with these kind of tactics to be drowned in a sea of news and to be heard as late as possible so that people are not tuned in and do not listen to the debate, well, Mr Speaker, it is just not worth the Opposition’s while to bring any kind of motion to just be debating it as between Government and Opposition without anybody listening to the 200 debate.

It is sad, Mr Speaker, because it places the firm, of which we are both partners, Mr Speaker – sabbatical or no sabbatical – the firm of which I derive a substantial financial benefit and he derives a substantial financial benefit in the eye of the storm, Mr Speaker, and that is his doing, not mine, Mr Speaker. It is sad, Mr Speaker, because I see the faces of good friends across the floor of this House, who are now going to be

205 forced to vote in favour of an *abusive* – as I will demonstrate in a moment – abusive motion, simply because of collective Cabinet responsibility and because this is a Government motion, Mr Speaker.

It is a motion that is misleading the House, Mr Speaker, and not what I said on the 19th March, because it attributes to me words which I simply did not utter or were not reasonably capable of being interpreted as the mover of the motion suggests. It is an abusive motion and it is says, Mr Speaker, I am sorry to say, more
210 about the mover of the motion than it does about me.

Mr Speaker, the motion says and I quote:

215 ‘Mr Feetham clearly misled the House when he stated that he was not aware that the law firm of which he is a partner, Hassans, were solicitors for the operators of the Sunborn floating hotel.’

Well, let us see, Mr Speaker, what in fact I did say and how it was in fact interpreted by reporters who were present during those exchanges.

Mr Speaker, the starting point – and this must be the starting point because this is the context in which this all took place – was my first supplementary. Mr Speaker, I quote:

220 ‘Starting with a question of a Certificate of Fitness, Mr Speaker, does the Government feel comfortable with a situation where the Sunborn floating Hotel does not have a Certificate of Fitness here in Gibraltar? My understanding of the position is that any hotel in Gibraltar would need to have a Certificate of Fitness and presumably the reason why this particular hotel does not have a Certificate of Fitness is because it falls
225 between two stools. In other words, it falls between regulations pertaining to hotels and regulations pertaining to ships. I then continue.

He then comes back to me and he says, and I quote:

230 ‘Mr Speaker, before I answer, can I invite the hon. Gentleman to declare his interest in respect of those questions?’

I am going to return to that in due course, Mr Speaker, because it was a wholly misconceived statement for the hon. Gentleman to make. Unsupported, either by the Rules of this House or by Erskine May. I said:

235 ‘Mr Speaker, I am certainly not the owner of the hotel and so I am not sure what interest he wants me to declare.’

He came back to me, and he said:

240 ‘Mr Speaker, the hon. Gentleman is a partner in the law firm that advises the Sunborn floating hotel. As I understand it, given previous rulings, it is incumbent upon him to declare his interest in that respect.’

– and then he continued.

Then I said:

245 ‘Mr Speaker, he appears to know more about the business of Hassans than I do. I have to say that is the reality. He appears to know more about the business of Hassans than I do. I certainly was not aware that Hassans had been advising the Sunborn floating hotel in relation to these particular issues...’

– Mr Speaker, we are talking about the Certificate of Fitness – That is what we are talking about.

250 ‘If that is what he is suggesting...But to the extent that I must accept the hon. Gentleman’s word for it, that Hassans are somehow involved with the Sunborn floating hotel, to the extent that that is so, Mr Speaker, I have no problem in declaring that is so, accepting *his* word for it that Hassans are acting on behalf of the Sunborn floating hotel...’

– and then he comes back to me.

He could never have misunderstood what I said to him, that it was wider than that, because he came back to me and he said this:

255 ‘Well, Mr Speaker, it is not that I know more about the business of Hassans than he did, it is that lawyers from Hassans come to see me about the Sunborn floating hotel and they appear to have advised that the Sunborn floating hotel does not need to apply for a Certificate of Fitness. It may be that, given everything he said, he takes issue with the views expressed by some of the partners and associates working in his firm.’

260 Well, Mr Speaker, just pausing there, I thought that was a scandalous statement for him to make because if a firm of solicitors goes to the Chief Minister of Gibraltar and they say, ‘We have received this particular advice’, surely that advice is privileged advice and he should not be disclosing it in this House. But, of course, he has no respect for the principle of privilege because what he is doing is... he does not waste a single opportunity to try and get a political point in.

265 What is obvious, Mr Speaker, is that he did not misunderstand what I had said about what I did or what I did not know, Mr Speaker, and of course the reality is that Hassans is a firm with many, many lawyers. It has nearly 300 employees. How on earth is the Leader of the Opposition, or indeed any other lawyer in Hassans, going to know or must know what every single lawyer in Hassans advises or does not advise? Indeed, it is a step back from that, Mr Speaker. How on earth do I know that the Sunborn floating hotel has gone to Hassans to seek advice on a Certificate of Fitness, because it came as a complete surprise to me, Mr Speaker?

And I said:

275 'No, Mr Speaker. I do not take issue with the advice provided by any lawyer. I am asking the Government questions because they are accountable at the end of the day to this House and to the people of Gibraltar. I am the Leader of the Opposition. I also happen to be a partner in Hassans. But the fact that somebody from within Hassans, which is a massive organisation, has been advising the Sunborn [floating hotel] is neither here nor there. I am asking the Hon. the Chief Minister whether he, as the Head of the Government, feels comfortable with a situation where you have a hotel which does not appear to have a Certificate of Fitness. That is all I am asking. Now surely that is capable of a very simple answer.'

280 And then he came back to me again, upset at the fact that the hon. the backbencher had presented a motion or had made this particular point on the voting of a Bill when he was on this side of the House and we were on that side. Indeed, I recall it well, Mr Speaker, because I stood as Minister for Justice, a Member of the Government, and I too declared my interest at the time, Mr Speaker.

285 Then I said:

'Mr Speaker, I do not care what advice – I am not here in my capacity as a lawyer – what advice has been provided by Hassans, nor was I aware that Hassans had advised the Government in relation to this particular issue or advised anybody else about this particular issue.'

290 Again, Mr Speaker, he could not have been misled by that.

And indeed, at the end of this exchange, I said to him as well when he said that he was going to bring a motion that I had misled the House, I said:

295 'The issue of Hassans acting on behalf of the Sunborn floating hotel has arisen in relation to the question of the Certificate of Fitness. I have absolutely no clue about Hassans acting in respect of the Certificate of Fitness and advising the Government or anybody else as to whether a Certificate of Fitness was necessary in this particular case, but that is irrelevant. He brings whatever motion he wants to bring and I will meet it head on.'

300 That is what I said to him and for him to suggest that I had meant something else is a gross misrepresentation, Mr Speaker, of what I said and what I meant, which he must have understood very clearly, because certainly, Brian Reyes, the reporter from the *Chronicle* understood it as I have outlined in my own speech because he said this in the *Chronicle* of 20th March 2015, and I quote:

305 'As the two men hit back and forth on this issue, Mr Feetham insisted that he had no knowledge that Hassans had advised the Sunborn on the issues of the Certificate of Fitness and that this was irrelevant to his line of questioning.'

That is how Mr Reyes, Mr Speaker, the correspondent for the *Chronicle* understood what I had said.

310 Mr Speaker, the reality of this particular motion is that this is part of an ongoing campaign by the Hon. the Chief Minister in particular, to make my life within Hassans as difficult as possible – that is the reality. That is the transparent reality of what is going on here, because he has raised the issue of Hassans every single time I ask questions about Credit Finance, every single time I ask questions about the Gibraltar Savings Bank and every time that I ask questions about the Sunborn, Mr Speaker. It is part of a tried and tested *modus operandi* on the part of the GSLP going back years. They did it with – (*Interjection by the Hon. Chief Minister*) My Father, Mr Speaker, has nothing to do with it. If he wants to make a comment about my Father, let him make it to the microphone so that the entirety of the electorate in Gibraltar can hear that he stoops as low as mentioning my father in debates. My father is not here to defend himself, Mr Speaker. I am and that is precisely what I am doing.

320 So whilst I am on my feet, Mr Speaker, he will listen to what I have to say, however unpalatable my words may be to him. (*Interjection by the Hon Chief Minister*) They did it to Peter Montegriffo Mr Speaker. They did it to Peter Montegriffo in 1990 and 1991, with the then clients of Hassans, and it ultimately caused him to leave politics and cause a by-election. They did it to the hon. the backbencher, Peter Caruana, as he then was, in relation to the Spanish pensions and Triay advising Spanish pensioners and they are now trying to do it to me, Mr Speaker. That is the transparent political ploy that lies at the heart of this particular motion.

325 I want the hon. Gentlemen, Mr Speaker, and anyone who forms part of his small cabal trying to apply political pressure on me using my partnership in Hassans to understand this. I have every faith, Mr Speaker, in my senior partners that they will not be influenced one jot by his games and by his attempts to pit them

330 against me, because at the end of the day, Mr Speaker, Hassans has a very long and distinguished tradition of producing lawyers that ultimately end up in public service and in politics.

In any event, if I am ever made, because of the pressure that he may exert, to choose between my partnership of Hassans and my service to the people of Gibraltar, the people of Gibraltar win every single day of the week, Mr Speaker. (*Banging on desks*) I will discharge my role as Leader of the Opposition fearlessly, Mr Speaker, so that kind of pressure will fail on both grounds.

335 But, Mr Speaker, there is also an immense hypocrisy in all this and the constant retort by the hon. Gentleman, ‘Ask your client’, every time I ask a question about the Sunborn or the Gibraltar Savings Bank or Credit Finance. He is a partner of Hassans, Mr Speaker. He says that he is on a sabbatical, but he continues to be a partner of Hassans and he continues to derive substantial financial benefits from Hassans, Mr Speaker.

340 Mr Speaker, if the Sunborn are clients of mine, they are clients of his and he has as much of an obligation to declare any interests as I do, Mr Speaker. On this particular occasion, on the Certificate of Fitness, he knew that Hassans had advised on the Certificate of Fitness and I did not, Mr Speaker. Well, should he not have allowed someone else to answer the question? Should he not have declared his interest before he stood up and answered the question?

345 I have absolutely no influence, Mr Speaker, on the Government at all except it appears in the propensity to rile the hon. Gentleman into bringing absurd motions; therefore any conflict of interest on my side pales into absolute insignificance in relation to any conflict of interest on his side, Mr Speaker. I may be a partner of Hassans and Hassans may have acted for the Sunborn, but I did not bring the Sunborn to Gibraltar, he did and he is a partner of Hassans as well. Mr Speaker, the absurdity of this particular point about conflicts of interest really is absolutely astonishing. Mr Speaker, it is also misconceived, as I am going to demonstrate to the Hon. the Chief Minister now.

350 Mr Speaker, Standing Orders in relation to this question of conflict of interest, the relevant Standing Order is 53(7), and 53(7) says:

355 ‘Where a member has a direct personal pecuniary interest on any subject, he shall declare that interest and shall not vote on the Question, but a motion to disallow a member’s vote on this ground shall be made only as soon as the numbers of Members voting on the Question have been declared. If the motion for the disallowance of a Member’s vote shall be agreed to, the Speaker or in Committee the Chairman, shall direct the Clerk to correct the numbers voting in the division accordingly.’

– and then it continues.

360 Mr Speaker, this Standing Order deals with voting on Bills or on motions – that is what it is addressed to. It is not addressed to Questions and Answers. Now, of course, we then go to Erskine May, and may I, for the benefit of the Chief Minister, pass a copy of the relevant passage of Erskine May so that he can follow my point as well?

365 Mr Speaker, page 76 of Erskine May, and I think my colleagues have extracts too. Mr Speaker, the third line:

370 ‘The House has two distinct but related methods of the disclosure of the personal financial interest of its Members: registration of interest in a register which is publicly available and declaration of interest in the course of debate in the House and in other context.’

The main purpose of the register is to give public notification on a continuous basis of those financial interests held by Members which might be thought to influence their Parliamentary conduct or actions.

The main purpose of the declaration in debates is to ensure that fellow Members of the House and the public are made aware at the appropriate time when a Member is participating in the proceedings of the House, of any past, present or expected future financial interest which might reasonably be thought to be relevant in those proceedings.’

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– and the issue is relevance.

Indeed, when you turn to the third page, it is page 80, Declaration of Interest in Debate, the second paragraph, it says this:

380 ‘It is the responsibility of the Member, having regard to the Rules of the House, to judge whether a financial interest is sufficiently relevant to require a declaration. The basic test of relevance is similar to that for registration, that a financial interest should be declared if it might reasonably be thought by others to influence the Member’s speech.’

In other words, it is only relevant if it would influence what *I* say, Mr Speaker. It is quite the reverse... and indeed the criticism from the hon. Gentleman is that I have no regard to the clients of Hassans. Indeed, 385 he has made that point in his speech today. Mr Speaker, *I* am the one that is saying I do not agree with the incorporation of Credit Finance. *I* am the one that is saying I do not agree with the use of the Gibraltar Savings Bank in the manner that the Government is using the Gibraltar Savings Bank and *I* am the person that is saying that I would not have lent the money to the Sunborn or indeed I was questioning the Certificate of Fitness. Well, Mr Speaker, how on earth that could be relevant to anything that I might say in 390 this House, I just really do not know. But it does affect him, Mr Speaker, because he is the Chief Minister

of Gibraltar. He has a pecuniary interest and he is the man in the hot seat making the decisions and potentially making decisions that influence favourably or otherwise the clients of Hassans. Well, I have no influence, Mr Speaker. It is utterly misconceived, Mr Speaker, for him to talk to me about declarations of interest and me not declaring interest the way that he does at every single opportunity.

395 But, Mr Speaker, now that I have dealt with some of the balls that he has served in my direction, may I also serve him a couple of volleys with a little bit of top spin too? Mr Speaker, the context of this motion is the Sunborn with its obvious connections to Credit Finance – indeed, he has introduced Credit Finance – and the Gibraltar Savings Bank... and it is an utter hypocrisy, Mr Speaker, to be talking about me misleading the House when the way that he answers questions about the Gibraltar Savings Bank, Credit
400 Finance and the Sunborn is at the root of all the issues between him and me about the lack of transparency and the opaqueness of this Government in the management of Gibraltar’s public finances, of which this is clearly a part.

Mr Speaker, the starting point is March 2012 and the Bill the Chief Minister brought to this House in order to amend the Gibraltar Savings Bank, and he may recall that what he did in that amendment in March
405 2012 was delete the requirement of the Gibraltar Savings Bank, invest in cash or cash equivalents – in other words, it went in March of 2012 from a position that the Gibraltar Savings Bank could only invest in very solid safe forms of investment to investing in anything under the sun. They could do anything because of that amendment.

Mr Speaker, in November of 2012, eight months later, in a supplementary question to Questions 1001
410 and 1002, the Chief Minister was asked whether, and I quote:

‘The Chief Minister is able to confirm that the money represented by the issue of debentures by the Gibraltar Savings Bank is held in cash or near cash by the Savings Bank?’

– and that was the question that he was asked.

415 The answer from the Chief Minister was, and I quote:

‘Mr Speaker, that is what the Gibraltar Savings Bank Act provides’

– that is what he said –

420 ‘that investments must be held in. So unless somebody is in breach of the Gibraltar Savings Bank Act, then yes, I can confirm that.’

Later, he repeated:

425 ‘As far as I understand it, all investments of the Bank are in cash or near cash, which is what the Savings Bank Act requires.’

Well, Mr Speaker, he obviously did not understand it, because eight months previously he had come to this House to actually move an amendment to delete the requirement that investments in the Gibraltar Savings Bank had to be in cash or near cash equivalents And, of course, that then allowed the Government,
430 Mr Speaker, on 17th February 2013 to incorporate Credit Finance Company Ltd with a registered address at No.6 Convent Place and invest £303 million of savers’ money into it. Had the Act required the Gibraltar Savings Bank to invest only in cash or cash equivalents, which was the position when we were in Government, that would not have been possible, Mr Speaker.

Well, Mr Speaker, I cannot believe that such a huge investment by the Gibraltar Savings Bank in non-cash investments had not already been planned by someone within his Government when he said three
435 months earlier, in November, that the Gibraltar Savings Bank could not invest in cash or near cash equivalents. Mr Speaker, Ministers and certainly not, Mr Speaker, the Father of the House, they do not wake up one morning and say, ‘Well, you know, I think it is a good idea to cause the Gibraltar Savings Bank to invest £303 million in a Government-owned company’. Indeed, Mr Speaker, the very fact that the
440 Government moved an amendment in 2012 to do away with the requirement that he said existed in November was what allowed the investment of that money in Credit Finance Company in the first place.

Mr Speaker, there are two explanations for the statements that he made in November of 2012. Either he was blissfully unaware, Mr Speaker, of the plans of the Father of the House as to the use of the Gibraltar Savings Bank to fund huge parts of the Government’s expenditure and projects, blissfully unaware, or Mr
445 Speaker, he was aware but he chose to make that statement to the House. I do not say, Mr Speaker, that he was misleading the House at that stage. I actually think that he did not know what was happening in his own Government, Mr Speaker, on the management of the public finances of Gibraltar.

Mr Speaker, the Sunborn Gibraltar Ltd was incorporated on 12th March 2013 and on 16th April 2013 it registered a mortgage for an unlimited amount. So at that stage Credit Finance had already provided that

450 loan of between £30 million and £40 million – we do not know because the Government does not give us the exact figure – had provided that loan to the owners of the Sunborn.

Mr Speaker, whatever his ignorance of Mr Bossano’s secret plan may have been in November 2012, he certainly must have known about Credit Finance Company and the loan to the Sunborn by April of 2013, otherwise, Mr Speaker, he ought to move to one side and allow the Father of the House to run the show because he is clearly the figurehead of this Government and is not running the show, Mr Speaker. On 16th
455 May 2013 I asked the question for the first time about the Sunborn, and so a month afterwards.

After indicating in answer to the penultimate supplementary of Question 423 that the Government had not made any financial investment in the Sunborn and therefore the taxpayer stood to lose nothing if the ship just sailed away into the sunset, I asked the next logical question, which was whether the Government
460 had loaned any money to the owners of the Sunborn, because of course the taxpayer could lose that money if the Sunborn just decided to sail into the sunset as he had remarked. The answer was this, Mr Speaker:

‘I would need notice of that question.’

465 That is a month after the Government loaned the money, £30 million or £40 million, to the Sunborn and two months after the Government had invested £303 million from the Gibraltar Savings Bank into Credit Finance. This is the Chief Minister of Gibraltar:

470 ‘I would need notice of that question. This is not any of the issues that have been raised in respect of this matter, so if the hon. Gentleman gives notice of that question for the next meeting, I can try and find out exactly what the detail of anything related to soft loans might be, but I have no information with me today.’

No information a month after he provides his Government, through a Government-owned company registered at No.6 Convent Place, provides a loan between £30 and £40 million to the owners of the
475 Sunborn.

Mr Speaker, a month later on 23rd May, Question 384/2013, I asked the Chief Minister how the proceeds from savers money at the Gibraltar Savings Bank had been invested as at 1st May 2013, and it was answered by Minister Bossano. This is the first time that Minister Bossano answered any questions about Credit, about the Gibraltar Savings Bank or about these issues. They had been answered by the Chief
480 Minister prior to that and all the answers, in fairness to him, have been properly provided. Minister Bossano answered by providing me with a list of investments, not as at the 1st May 2013, but as at 31st March 2012 – a year earlier, Mr Speaker.

The significance of that, Mr Speaker, is that if they had disclosed all the investments of the Gibraltar Savings Bank as at 1st May, it would have disclosed the fact that the Gibraltar Savings Bank had invested
485 £303 million, Mr Speaker, as at that date in Credit Finance Company Ltd, which would then have led the Opposition on a trail of enquiry and no doubt we would have then seen the loan to the Sunborn floating hotel. But, of course, Mr Speaker, there was a by-election looming, hence the manner in which the Government answered all these questions.

Then, Mr Speaker, on 20th June 2013, I asked the Hon. the Chief Minister, and I quote, because this
490 really is one of the most shameful episodes in Parliamentary history:

‘Can the Chief Minister state whether the owners of the Sunborn Hotel have had the benefit, either directly or indirectly, of any financial assistance from the Government?’

495 The answer was no. That was the answer from the Government.

Well, Mr Speaker, I just simply do not understand how on earth a Chief Minister of Gibraltar discharging his responsibilities to the House could possibly answer no to a question like this when he must have known, Mr Speaker – otherwise he is not running his own Government – that Credit Finance, a Government-owned company registered at No.6 Convent Place, in his Department, had made a loan of
500 some £30 million to £40 million, Mr Speaker, to the owners of the Sunborn. Mr Speaker, absolutely shameful.

Then on 24th June 2013, during the Budget session, I said this, Mr Speaker:

505 ‘I have already sought to show how the Government has shifted Government debentures to the Gibraltar Savings Bank where they do not rank as public debt. I want to deal now with the use of the proceeds of the Gibraltar Savings Bank issued debt security may be put to.’

I then reminded the House of the amendments in March of 2012 and I said this:

510 ‘Mr Speaker, I have been observing the Hon. the Minister responsible for the Gibraltar Savings Bank, Minister Bossano, for many years now. I may not always agree with what he does or the manner in which he does it, but he does everything for a reason. I hope, Mr Speaker, that I am wrong and that the Government is not contemplating using that money to fund its capital projects and

515 expenditure simply because it is committed not to borrow or donate Government surpluses to community care. The consequences for these annual debates and the transparency of Government finances would be considerable because it would blow a massive hole in the Government's duty to account to this House at Budget time for expenditure because, as we all know, the Gibraltar Savings Bank expenditure is not reflected in these estimates.'

Mr Speaker, at this stage, we did not have a clue about Credit Finance or about the Sunborn, but certainly because we are a diligent Opposition, we certainly had an inkling that all this transference of debt from the Government into the Gibraltar Savings Bank was for a reason and that the Government intended to use it for its own purposes, Mr Speaker. But the importance is that in the light, Mr Speaker, of the way that he had answered the question as to the loan, the way that Minister Bossano had provided me with a schedule relating to a year before, Mr Speaker, there was an obligation on the Leader of this House to come to this House and set the record straight, Mr Speaker, about the Sunborn and about Credit Finance. That was his obligation at the Budget if not earlier and he did not do so, Mr Speaker.

520 Indeed, Mr Speaker, he only came clean, because this only became an issue during the by-election because somebody came to me and said to me, 'Look, it is not true that the Government has not provided a loan to the owners of the Sunborn'. I was prepared to give him the benefit of the doubt, Mr Speaker, but somebody told me that it was not the case. We then conducted a search on the Sunborn company and we found the loan to it from Credit Finance Company, Mr Speaker. He continued to deny it throughout the by-election and it was only, to his eternal shame, the day after the by-election that he came clean in an interview with Dominique Searle in the *Gibraltar Chronicle* drawing the distinction, Mr Speaker, between the Government and a Government-owned company and saying that I had asked the wrong question.

525 Well, Mr Speaker, what is wrong about a question that says has the Government directly or indirectly provided any kind of financial assistance to the owners of the Sunborn, Mr Speaker. The irony and absurdity of all this, Mr Speaker, is that earlier on this year when it suited the Government's purposes and it wanted to make an announcement as to the purchase of the shares in Gibtelecom owned by the Slovenian company, he told the press that the Government had bought back those shares, when indeed we only found out two months later that it was not the Government, it was the Gibraltar Savings Bank. So when it suits him, Mr Speaker, he draws the distinction between a Government and a Government-owned company registered at No.6 Convent Place, Mr Speaker, but when it does not suit him, the Government and the Gibraltar Savings Bank are one and the same, Mr Speaker.

530 What is also absurd, Mr Speaker, about the exchanges last week, was that on 29th May 2014, when I asked the question whether any of the debt – we do not know how much because he refused to tell us – to the Sunborn had been rescheduled...well, I did not ask that. I apologise. What I asked was whether the Sunborn had paid that debt on its due date and the hon. Gentleman said to me, in May of 2014, 'Yes, the Sunborn had paid its debt on the due dates'.

535 Mr Speaker, I then asked in the last session a similar question... indeed I asked that and the rescheduling. I asked that question and he did not want to give it to me, Mr Speaker. Well, look, I could be forgiven and the Opposition could be forgiven, Mr Speaker, for being on the highest alert, not only about the history in which... because the history and the manner in which the Government has dealt with this, but because in May 2014 he was willing to say to me openly that the Sunborn has paid always on its due date and then a week and a half ago he did not want to answer the same question.

540 Well, Mr Speaker, does he now have something to hide, because that is the next logical question? Mr Speaker, during his New Year speech, again he then publishes a balance sheet relating to Credit Finance Company and he says, 'We are the most transparent Government in the history...' of what I do not know. He publishes a balance sheet, a four line document, Mr Speaker. A four line document insulting the intelligence of the people of Gibraltar, Mr Speaker... insulting the intelligence of the people of Gibraltar – and then he says during the course of that speech, 'Not one penny is being spent on Government projects'.

545 Again, Mr Speaker, I was willing to accept him at face value, but then Mr Bossano, Mr Speaker, a month later... within a couple of months, I beg your pardon – in answer to questions in this House, accepted that in answer to questions from me that £347 million of the now £400 million invested in Credit Finance by the Gibraltar Savings Bank had in fact been transferred to Gibraltar Investment Holdings Company, which is the Government's holding company for all Government-owned companies, for the purposes of allowing 'Government-owned companies to meet their cash flow requirements'. Well, Mr Speaker, that includes GJBS, who are undertaking about £200 million worth of Government work.

550 Mr Speaker, if anybody has to be careful with the statements that they make, it is the hon. Gentleman, and not me, Mr Speaker. It is certainly not me.

555 Mr Speaker, the reality is that on the issue of transparency, on the issue of who is honest with the people of Gibraltar, on the issue of opaqueness, the hon. Gentleman has been measured, Mr Speaker, and he has been found wanting, Mr Speaker. That is the reality, Mr Speaker, and there is no one who has misled this House or the people of Gibraltar more than the hon. Gentleman, Mr Speaker. (*Banging on desks*)

Mr Speaker: Does any other hon. Member wish to contribute to the debate?

575 The Hon. Sir Peter Caruana.

Hon. Sir P R Caruana: Yes, Mr Speaker, very briefly I would just like to add one thing. The Hon. the Chief Minister invited Parliament, by which I assume he meant the Opposition as well, to support what he called the ‘Government motion’. In appealing to the whole of the Parliament, that is to say to the
580 Opposition including me to support the motion, he must have been suggesting that he thought that I was capable of objective fairness and that I would not make a decision on this motion based solely on Party lines. If that is the case, then I trust that it will be equally true of the Members on that side of the House.

I have no doubt whatsoever in concluding that the suggestion that the Hon. the Leader of the Opposition has misled this House in the manner that the hon. Member has suggested in his motion, or at all, is
585 completely unfounded and unmet, not just for the reasons that the Hon. the Leader of the Opposition has just so formidably articulated, but also for this reason, and this is my only contribution to this debate.

It seems to me that as he has put his motion it suffers a fatal flaw and that is that as I have understood his address in support of his motion he has listed, and I have made a note of three, he may have referred to more – at least three Government press releases that I made a note of the number of – in which he says
590 public notice, and therefore it was in the public domain because it was in Government press releases that Hassans represents the Sunborn, leaving to one side the issue about the precise words that the Leader of the Opposition uttered or did not utter.

My Lord... I mean *Mr Speaker*. I get into the same trouble in Court by the way. (*Laughter*) I call the judge Mr Speaker and he does not like it either. (*Laughter*) Mr Speaker, I believe the fatal flaw is this. The hon. Member has said that the Leader of the Opposition is obviously misleading the House because the
595 information that he claimed not to know about was ‘in the public domain already and therefore he must have known.’ But Mr Speaker, if it was in the public domain for the hon. Member, it was in the public domain for this House as well, and if the hon. Member is to be imputed knowledge of everything that is in the public domain then the same knowledge for the same reason has got to be imputed to everybody in this
600 House.

Every lawyer sitting in this House on both sides knows that it is not possible to mislead someone who knows the truth – in other words, you cannot mislead somebody who knows the truth about what you are saying. And if, as the hon. Member says, the misleading flows from the fact that the information is in the
605 public domain, *ergo* the House must know the same information and it is not possible for the House to have been misled by it, because it is already in the public domain, namely the same criteria by which he seeks to condemn the Hon. the Leader of the Opposition. So quite apart from the objective view that one takes on the evidence, and quite apart from Party lines and quite apart from objectivity and subjectivity, by the very basis upon which he has presented his case against the Leader of the Opposition, it is not possible. It is not possible to be sustained because by his measure of what constitutes misleading this House could not have
610 been misled by what the Hon. the Leader of the Opposition said, even if he had said what the hon. Member attributes to him. You cannot mislead someone who knows the truth.

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

615 The Hon. Mr Albert Isola.

Minister for Financial Services and Gaming (Hon. A J Isola): Yes, Mr Speaker, I am grateful.

I had no intention of intervening in today’s motion on the subject matter before us now, but the two interventions from the Leader of the Opposition and from the hon. the backbencher has stirred me to rise
620 because I am almost in disbelief at what I have heard. We have had, I think, probably about 45 minutes from the Leader of the Opposition talking about conflict of interest, declaration of interest, the cabal that sits on this side of the House, the GSLP plots, Erskine May, Credit Finance, Savings Bank and then of course the huge lesson in arguments that we have heard *ad nauseam* from the Hon. the Leader of the Opposition in respect of his personal views on Credit Finance, the Sunborn and the Gibraltar Savings Bank.
625 But Mr Speaker, what an absolute smokescreen. What relevance have any of those issues got to do with the motion before us?

The motion before us is actually very, very simple, Mr Speaker, and it is that the hon. Member said he was not aware that Hassans were acting on behalf of the Sunborn. The Hon. the Chief Minister gets up and says, ‘I am happy to forgive if you just accept that that was a mistake’ and the hon. Member gets up and
630 fails to correct the clear error, which by the way has not been denied by the hon. backbencher. The hon. backbencher is actually saying in effect that what the Leader of the Opposition has done is consistent because everyone in the Parliament knew the truth and therefore it is impossible to mislead.

Hon. Sir P R Caruana: Mr Speaker, on a point of order.

635 No, Mr Speaker, he cannot attribute words to me. I have not said. I have said even on the assumption, which I do not accept, that the Hon. the Chief... uttered the words acclaimed, my point is right. He cannot convert that into a statement that I accept that what the Hon. the Leader of the Opposition said are the words attributed to him. So I am always very interested in hearing him, but please without putting words in my mouth.

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Hon. A J Isola: Mr Speaker, in that case, what I will do is say that he certainly did not suggest that he had not intended to mislead the House, if I can leave it at that, which is a flipped coin of the same thing.

Mr Speaker, it is interesting really –

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Hon. Sir P R Caruana: Floundering!

Hon. A J Isola: I am doing my best. (*Interjections*)

650 So it is one of the worst lessons in the art of diversion that I have ever seen in my life, because to sit here and listen for 45 minutes about Sunborn and Credit Finance when the actual motion is so simple and so brief, and it is basically saying this, ‘I was not aware that Hassans were lawyers.’ The Chief Minister gets up and says, ‘But hang on a minute. Are you sure about that? And if you are not sure, do you want to correct? If not, I will bring a motion.’ ‘I do not care two hoots about whether you bring a motion or not.’ That is the issue that we are adjudicating on, and frankly, Mr Speaker, this motion is hugely important – *hugely* important.

655 The hon. Member says that one of the things that my friend talked about in some session many, many moons ago was one of the most shameful episodes in Parliamentary history. Well, Mr Speaker, for me, misleading Parliament is one of the most shameful episodes in Parliamentary history and I am absolutely gobsmacked that the Leader of the Opposition has not dealt with the very single and simple point as to whether he was or was not aware that Hassans were the lawyers for the Sunborn. It is as simple as that, Mr Speaker. (*Interjection*)

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Mr Speaker: The Hon. Mr Bossino.

665 **Hon. D J Bossino:** Mr Speaker, I think there is one point that needs to be clarified here. I think the hon. my learned and hon. Friend the Leader of the Opposition very clearly set out in his exposition and in his intervention in response to the Chief Minister’s motion what he actually said. The Hon. Mr Isola said that this motion is simple and brief, but I am afraid it is wrong. It is wrong and misconceived. Quite frankly, one of the points I was going to make in my initial intervention was to say that this is a huge and humongous waste of time, quite frankly, that Parliamentary time should be used for this purpose.

670 Mr Speaker, what is it that the Hon. the Leader of the Opposition said? Let me just make the point. Let me just make the point in answer to his point and it is this. We need to understand one thing that this point really arises as a result of a supplementary question which my hon. Friend the Leader of the Opposition said and it related specifically to the Certificate of Fitness and all the rest of it flowed from there. That is when the Hon. the Chief Minister rose to his feet and made the misleading the House or Declaration of Interest point. He did not make it before he answered his formal reply. He made it after the first supplementary which related specifically, as I said earlier, to a Certificate of Fitness. And what is it that he said? On two occasions, Mr Speaker on two occasions he said, ‘I certainly was not aware that Hassans had been advising the Sunborn in relation to these particular issues’. How could he have been?

675 He may have been aware that Hassans was retained by the Sunborn, but not in relation to these particular issues, and this particular issue related to the Certificate of Fitness. He ends his intervention on 19th March in this manner, Mr Speaker, when he says very clearly the following:

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685 ‘The issue of Hassans acting on behalf of the Sunborn has arisen in relation to the question of the Certificate of Fitness. I have absolutely no clue about Hassans acting in respect of the Certificate of Fitness and advising the [office] or anybody else as to whether a Certificate of Fitness was necessary in this particular case...’

The point is abundantly and absolutely clear, and therefore the premise of both the motion and indeed the Hon. the Minister for Financial Services’ recent intervention are completely and utterly wrong, erroneous and misconceived.

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Mr Speaker: Any other hon. Member wish to speak on the motion?

The Hon. Mr Bossano.

695 **Minister for Economic Development, Telecommunications & the GSB (Hon. J J Bossano):** Thank you, Mr Speaker.

Mr Speaker, the Leader of the Opposition has spoken about almost everything under the sun except the Sunborn. (*Laughter*) The distinguished backbencher was making a point, which was a legalistic point, I think, that it is not possible to accuse somebody of misleading us or misleading other people if the thing that he is intending to do is impossible because we all have the level of knowledge that is linked to the misleading. Therefore, if we all know that it is in the public domain that Hassans represents the Sunborn, then he cannot possibly be successful in misleading us and therefore it is not the case that we should be accusing him of attempting him to mislead.

Well, I do not suppose he was attempting to mislead anybody, because frankly it is not an issue that I think would worry many people, whether Hassans represent the Sunborn or not. (**A Member:** Hear, hear.) It would be very peculiar if they were not represented by Hassans as Hassans represents almost every successful business in Gibraltar and the Sunborn is a huge success. (**A Member:** Hear, hear.) (*Laughter*) Of course he gets a share of it no doubt. (*Laughter*) But he draws an analogy, Mr Speaker, between that and what he claims were the dreadful things that the old GSLP Administration used to do, of which he was such a proud admirer and follower. I am certainly not going to bring into the discussion his dad, who is still a close friend of mine, and I am of him.

But I have to tell him that his conversion to the other side of the fence is something that is almost incomprehensible for somebody who puts standards at such a high level and hypocrisy at such a low level, because one of the things that he said about his commitment to politics and his commitment to being in Parliament is that if such is his dedication to the people of Gibraltar that if he had to choose between losing the huge sums he gets from the successful Hassans and serving the people of Gibraltar in this House, he would have no doubt what he would do. I often wonder, Mr Speaker, how many lawyers we would have if we banned the profession from standing for election and they all had to give up their jobs. (*Laughter*) But I can tell him one thing, I do not really think I can believe his dedication to the cause.

He reminds me of one of the things that I encountered in my first occasion when I spoke after being elected in 1972, and I did not speak here because I was elected before the summer recess and there was a CPA Conference in Malawi. I went with the then Minister Horace Zammit and Paul Garbarino to Malawi as the CPA delegation from Gibraltar. We had His Highness, the Ngwazi, Dr Hastings Kamuzu Banda telling the Commonwealth of the great sacrifice that he had made by giving up his practice in Kentish Town in the National Health Service and coming back to defend his people. At the same time he was in the process of building his seventh palace in Malawi, something that I do not think he was getting in Kentish Town under the National Health Service. (*Laughter*)

Then I remembered how he told me when he came back to join the socialist family of the great sacrifice he was making when he was one of the top criminal lawyers in the Midlands and he was losing a lot of money by coming back here. But he was coming back here because the most important thing for him was to join the socialists to get rid of the dear old backbencher sitting there (*Laughter*) which he succeeded in doing. He succeeded in doing it in a peculiar way, an unexpected way and not the way we expected it to happen, but he did it. (*Laughter*) On top of that he has not had to lose money and so it is a win-win situation. He is actually better off than in the Midlands and he has achieved his target. (**A Member:** Hear, hear.) (*Banging on desks*) (*Interjection*)

Hon. D A Feetham: [*Inaudible*]

Hon. J J Bossano: Of course I must say that I admire his skills in getting where he wants to be and he has done well, but of course there is another side, and that is the criticism of what was done by the GSLP before the Montegriffo exit, which allowed the entry of the distinguished backbencher. Gibraltar might have been deprived of 15 years of tyranny if we had not made that mistake (*Laughter*) but there you are. We get things wrong sometimes. (*Laughter and interjections*)

But of course there is something that I am prepared to stand up and defend when it comes to hypocrisy and double standards and that kind of thing, and that is, Mr Speaker, if the hon. Member, for example, as a politician is saying to people, 'Do not trust the Savings Bank', I would not expect him to be telling his clients, 'Put your money in the Savings Bank', because then he is being a hypocrite because he is saying one thing as a politician with one hat and doing something else with another hat.

I can tell him what I found completely unacceptable was that we had a situation where somebody like Peter Montegriffo would bring me a string of clients, which I was happy to receive and happy to work with, but then publicly the next day saying that people should not be bringing money to Gibraltar because Gibraltar was going down the tubes. Well, look, surely if you are a lawyer advising clients and you honestly believe it... or is it that you only believe it when you are behaving like a politician, but you do not believe it when you are behaving as a professional advising clients? If you are telling people that the economy is bankrupt, you are telling people that there is no money, you are telling people do not use the Savings Bank and you are telling people Credit Finance is a terrible thing, *then* you have to have a duty of due diligence

with your clients and you must give them the advice that is consistent with the views that you claim to hold honestly politically.

Those of us who are not lawyers do not have those kinds of conflicts and we can afford to say the same thing to everybody. So I think there is a legitimate position to take. Certainly I have no problem with taking
760 it. You should stand by what you say and if you say one thing in one forum then you should say the same thing in other forums. Therefore, if he wants to know the reason for the Montegriffo exit, the reason was quite simple. Nobody said Montegriffo should go from this House, but what I said was that I am not prepared to have somebody lobbying me with customers when at the same time he is saying that Gibraltar is not a place in which people should be putting their money and the economy is not well run. (*Interjection by Hon. D A Feetham*) Now you understand it. Well, I can tell him that if he brings me a customer tomorrow which is contrary to what he is saying in this House, I will say to the customer, in front of him, 'You should not trust this guy as your lawyer because he is trying to get you to put money in something that he says is ruinous'. (*Interjections*)

Therefore I think because that is what happened and because that is what I am prepared to defend, I am
770 telling him and I am telling it publicly, I have no problem with it. And if that he thinks, is something that was wrong about the GSLP and he is wrong about it now. Well, look, whether it is the GSLP or not, it was me then and it is me now. (*Laughter*) You all know on that side of the House that the leopard does not change his spots. (*Laughter*) You have told me that often enough. (*Laughter and banging on desks*) (*Interjection*) All the leopards are the same as far as I know. I do not know of any leopard that changes his spots.
775 We are all the same, all leopards. (*Laughter*)

The reality, of course, is that when the hon. Member came back and made that big sacrifice, he was making it for a particular purpose, and as I have said he has achieved that purpose. Often he stands up here and says things where I get surprised that he seems to be welcoming the role that I am playing, but really today he has given the game away. He is not welcoming the role I am playing at all. He is not saying today
780 any of the things that he said a few days ago, that it is a good thing that I am there and it is a good thing I am in charge of the Savings Bank. Is it that he has suddenly lost his confidence in my ability to protect the investors in the Saving Bank? Well, I hope it is not, because frankly I would not take it very kindly if he was insinuating that with me in charge... I am in charge, it is my responsibility, and I am glad that the Chief Minister has decided to make it so officially.

The reality of it is that technically the Savings Bank does not exist, and he should know that, because in fact the Savings Bank as an institution is a creature of statute and when what he now calls 'his Government', but which was the other lot when he was with me – (*Laughter and interjections*) What he now calls 'his Government' were prepared to go further than we have done so far and even further than we had planned to go with the Savings Bank, because we had not at any stage actually gone as far as saying, as
790 was said by the previous Government, that their plans – I think it was in 2007 or it might have been earlier – were to actually go down the road of allowing the Savings Bank to have credit cards, to have current accounts with cheque books and to do all those sorts of things. It is in *Hansard*. I can fetch it if you want. (*Laughter*) It is in *Hansard* and I supported it. I supported it actually from the Opposition. I thought it was a jolly good thing that they were looking at doing those things.

Does the hon. Member for one moment think that any savings institution that wants to make profits and wants to expand and wants to grow can actually grow by keeping all the money in cash? Because if that is what he thinks then I hope he never gets into Government because the Savings Bank will really go down the tubes. Does he think that there is anything wrong with having a requirement, not that says everything is in cash, but says that everything is in cash or invested with a profile which matches the deposits which I
800 give him every month? Not what banks do everywhere in the world that they publish how they have got their money invested once a year and usually a year after the year when it happens. No, every month. Every month he sees the figures.

If he suddenly comes saying, 'Ah, yes, but you said that the money was in Gibraltar Investment Holdings and you only told us after the by-election because you did not want us to know before', well, I am
805 not telling him where it was before, but I can tell him it was in his possession before. I am not going to help him find out where it was, but all he needs to do, if he has got the time, is to go back and look at all the bits of paper that I have given him in the past and he will find it there before the by-election. So that theory has gone down the tubes.

So I have to tell the hon. Member that in fact one of the strengths, the *competitive* strengths that the Savings Bank has in appealing to savers and to depositors is precisely that the one thing we do not do is what would be done or what will be done by the Gibraltar International Bank. I do not know when the International Bank starts operating, which will be very soon hopefully. The hon. Member will think that it is necessary for transparency for the bank to come here every month, for the hon. Mr Isola to come here every month and tell him how much money in overdraft every single customer of the bank has and what
815 they are spending it on or how many mortgages there are. Or is it that it applies to the Savings Bank but not to the International Bank? Because if the principal is that if it is state owned, what you do is you put every

single action that you take as a commercial entity in the public domain, then I do not think that even the Bank of England does that, never mind anybody else.

820 It is certainly not done, for example, by the Post Office Savings Bank in Singapore, which is a massive institution and which started life the same as we did, as a savings bank, and which one day I hope we will get as big as they are. Because we have got this clause in our legislation, the element of risk that is fundamental in the banking system, and which is known to be where the element of risk is, is that banks make money by borrowing short and lending long. So you put your money in the bank and if everybody in this room put their money in a bank tomorrow, they would, I suppose, think like the Leader of the
825 Opposition does, that the bank has got it all in a safe that if they come back tomorrow and they can get it out, which is what he thinks happens with banks. It does not happen like that. The banks actually lend money to other people, but they do not lend it to other people on the basis that they can only have it for 24 hours. They lend it to people on the basis that they may have it for five years. So if your money is there for 24 hours and they have given it to somebody else for five years, by definition, if everybody went for their
830 money the next day they would not be able to get it back because it was tied up, and that is what is known as a liquidity crisis. The clause which he finds so objectionable is the clause that protects the Savings Bank from a liquidity crisis, because if we have got money that is invested in the bank on call, we have got cash.

If there is money that is invested in the bank in one month, we have got it on one month. If there is money that is invested for five years, we put it in for five years. I have told him that before in answer to his
835 questions and I have given him the breakdown of the maturities. I have told him that the average maturities are designed to do that and it is monitored to do that. So what is clear is that reassuring him does not let him sleep at night peacefully like I would want him to be able to do. It does not matter for me because I do not sleep anyway, but he needs sleep. He is getting on a little bit and he needs his sleep. *(Laughter)* I am still the head of the youth section in the GSLP. *(Laughter)*

840 So if I thought that giving him these assurances and these clarifications would make him sleep at night, I would be happy to do it, but I know it does not. Regretfully it does not do that, because he then stays all night awake thinking of what next he can think of to trip us up, create problems for us and undermine the work that we are doing, which is so good for him, for his children and for the future of our country. I hope that one day he will stop doing that and then I would be able to congratulate him for stopping.

845 Thank you, Mr Speaker. *(Banging on desks)*

Hon. Sir P R Caruana: Mr Speaker, will he give way before he sits down?

850 **Hon. J J Bossano:** Yes, of course.

Hon. Sir P R Caruana: Mr Speaker, if the Hon. Mr Isola had another opportunity to rise, no doubt he would deliver the same speech about smokescreens all over again, but perhaps the Hon. the Father of the House identified the need for a smokescreen of that sort. Mr Speaker, he has provoked me into getting up simply to make the following points, which I will make briefly because we have both made these points
855 before. He has made those before and I have made the one that could be made.

Mr Speaker, he cannot confuse when the Opposition, particularly on the issue of transparency and Government accountability, challenge what the Government is doing in the area that he has just been speaking about. It is not because we do not think a Government-owned bank can function like any other bank and it is not because we think that a bank that is owned by the Government has to blurt out all the
860 details about its customers business. No, Mr Speaker, and he sort of caricatures, as he has done just now at length, the Opposition's position as if it were that for the purposes of ridiculing it. Of course, if that were the Opposition's position it would be ridiculous, but that is not the Opposition's position and that is not the criticism that has been articulated. Therefore, Mr Speaker, he provokes me, even from my lowly position in the backbench *(Laughter)* to rise to my feet just to remind him that in all that he has just said, he has
865 overlooked two facts which lie at the core of everything that I have ever said in this House about the area that he has just given his talk about.

I believe the Opposition frontbench too, which is firstly because the funds that find their way through the commercial finance and through Gibraltar Investment Holdings and perhaps spent or invested or lent
870 *wisely* perhaps, are to the extent that they are put at risk, because all commercial ventures can fail, because they are funds that eventually have to be paid back to the Savings Bank and the depositors of the Savings Bank are by statute secured by a Government guarantee, therefore any money that goes bad, despite the brilliance of his management of it, any investment of the bank... of the commercial finance that goes bad has ultimately to be paid for if the CFC, Commercial Credit Finance cannot make it good, by the Government ultimately guarantee of the depositors money or its own from which it originated.

875 Therefore we think, they may disagree, but we think, that because that is a contingent financial liability of the Government only if it goes wrong, hence the word 'contingent', because it is a contingent financial liability of the Government the House that is here to hold the Governments to account financially is entitled

880 to know – not by virtue of any obligation to poke into the affairs of the bank’s customers, but by virtue of the Government’s contingent financial liability to ask the Government what it is allowing the money that he is ultimately the guarantee of to be invested so that we can assess the risk. That is point one.

885 Point two is that we are not asking about – at least I have never asked – about the business of an individual customer of either his bank or the International Bank when it comes up, except to the extent that the customer is a Government Agency or a Government Company or a Government Department or an entity for which the hon. Members are responsible to this House, then I do reserve the right in this House to ask questions about the customer and to poke my nose into the customer’s affairs, because the customer is not any old customer, it is the taxpayer. The taxpayer through the Government, the taxpayer through the Savings Bank, the taxpayer through a Government-owned company, and where the account holder – that is the customer – is of such a kind, I think wholly different rules apply to *that* customer’s right to privacy than applies to the other customers, of which I am hoping there will be many and profitable of both CFC and the Gibraltar International Bank when that gets off hopefully to a very successful start. Mr Speaker, the hon. Member does not have to agree with us on that or anything, but what he cannot do is mischaracterise, but what he cannot *fairly* do is mischaracterise our position by painting a picture of what we think, and what we say, and what we do not know and what we do not understand by reference to things that are not the things that we have said.

895 In my opinion – and I will sit down now – there is a whole difference between accountability and transparency on the one hand and the structure of a bank that I would have set up too if I was still on that side of the House. They are wholly different things and we are entitled, we believe, to this House’s rights to accountability and transparency in the appropriate cases without being said to be critical of one bank or the other. I am critical actually of neither.

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Mr Speaker: Just one moment before the Hon. Minister rises.

In wanting to be as liberal as possible in interpreting the rules on debate, if the hon. Members read the motion carefully they will see that there is a limit about the extent to which a debate... within the debate on the Gibraltar Savings Bank and on the Gibraltar International Bank there is a limit about the relevance of these issues, which we have been going on for half an hour, to the rest of the motion.

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I am being very, very liberal, but there is a limit to the extent that I am prepared, because this is a debate that you are going to have again in June and you should not be having it under this particular motion. I am very sorry. So unless the Hon. Mr Bossano has a very specific point that he is going to make, otherwise I will ask him to sit down and call upon the mover to reply.

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Hon. J J Bossano: Mr Speaker, I had given way and so I have got to stand up before I sit down.

Mr Speaker: Yes, that is why I am saying that in your coming back I want you to be brief and to the point.

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Hon. J J Bossano: Yes. Well, I accept what you are saying. You are absolutely correct in what you are saying, but given the fact that the entire 99% of the Leader of the Opposition’s contribution was about everything other than Hassans and the Sunborn, then what else can one do but take up the tantalising invitation to follow through with the avenues that he has opened up.

920

I am glad the hon. backbencher has raised the two issues for two reasons. One of things is that I can see that being on the backbench produces a sense of a necessity for fairness, which apparently being on the frontbench or on the Government benches does not do, but I am happy to see him wanting us to be fair. It is difficult for me to remember when in the 15 years I saw that happening (*Laughter*) but nevertheless I am happy that he wants us to be doing it now. It must be something to do with the new experience of being on the backbench.

925

The second thing is that there is in fact a contradiction between the two points that he has made because if the concern of the Opposition is about the contingent liability of what happens if the borrower has not paid, then the concern of the Opposition cannot be that the borrower is the Government, because if what they are saying is that Credit Finance is lending money to the Government, which is wrong, and then they say that what I am concerned about is the contingent liability and what happens if the borrower does not pay?

930

If the borrower does not pay... Who is the borrower? The Government. What happens if it does not pay? The Government has to pay. Wait a minute, did I get this right or did I get this wrong? The Government –

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Hon. Sir P R Caruana: But that is if the Government is spending the money.

940 **Hon. J J Bossano:** I have not said we are spending the money. I am saying if their concern is that, then they should stop saying that their concern is the other because if their concern is that the money is being used by the Government then their first concern is obliterated, because if the Government does not pay, the Government has to pay and that is a contingent liability. Well, it is the same liability. It is not *twice* the liability, it is only once.

945 I am not saying that the money has been borrowed by the Government. I am saying they do and therefore by virtue of that concern they obliterate the other one. That is all I have got to say. (*Laughter*) Thank you, Mr Speaker.

Mr Speaker: If no other hon. Member wishes to contribute to the debate, I will call upon the mover to reply.

950 The Hon. the Chief Minister.

Hon. Chief Minister: Well, Mr Speaker, one could be forgiven for having forgotten what this motion was about (*Laughter*) but it has all been worth it just to see the hon. the Father of the House enjoy himself as much as he has. (*Laughter*) It is clear that the leopard cannot change his spots, thank goodness, and it is clear that the sheep do not stand a chance when he gets in the room.

955 It is also clear, Mr Speaker, or it has become abundantly clear this afternoon, that the hon. the backbencher feels he can still get up and clarify what it is that the Opposition is saying. Well, the times when he used to speak for the Opposition appear, unfortunately, to be past because at least we got some element of logic in what we heard when he was the one responsible for putting the arguments. But he has, of course, not lost one particular characteristic of the way that he deals with things, which is that he says things and when we seek to reply to them he quickly seeks to get up and say that we have mischaracterised what it is that we are replying to. Well, Mr Speaker, in all the time that I have been in this House that has become the way that he has dealt with *every* reply he has been given when it has been demonstrated to him that what he has said was wrong.

960 But, Mr Speaker, when the Hon. the Leader of the Opposition started to reply to my motion, I thought that ‘Monty Python’s Flying Circus’ had landed in this Parliament. He got up with the words ‘in for me.’ I expected him then to go on to say, ‘In for me. They have all got it in for me’, like the great sketch, because that is the only argument that he has put really, Mr Speaker. It is all about that we have got it in for him. We are trying to stop him from being able to practice law and we are trying to stop him from being able to put his arguments. He gets up on his white charger and says that he will be there for the people of Gibraltar in their service before he is going to be a lawyer in his law firm. Well, Mr Speaker, it just does not seem to me to be credible that this is what the debate should have become about.

970 Then he refers to the fact, I suppose in an attempt to try and tarnish us, but then he wraps himself up also in our colours, something that he constantly tries to do, this duality of what he represents... that now that the rainbow flag flies proudly over No.6 Convent Place, ah, but that is something that we also support. Well, Mr Speaker, it must be something that they *now* support, when he was referring to civil partnerships, because it certainly was not something that was supported by hon. Members when they were on this side of the House and that which the hon. Member, the Father of the House, reminded him was the Government he called ‘his Government’.

980 So when he was in ‘his Government’ they did not believe in civil partnerships or in the rainbow flag flying. Now that they are in Opposition they believe in all the things that they did not believe in when they had the power to do them in Government. That is the duality that we will see in the context of having to reply to him. He deployed in everything that he said. He said in particular that we brought this motion, not because he had misled the House at the last Question Time – the one that is relevant... the one that is current – but simply because we do not want to debate the Dr Giraldi motion. He said that we had done this to filibuster. Well, Mr Speaker, the facts are always better than the allegation. Let us look at the facts.

985 Opposition Members have spoken perhaps for 20 minutes... sorry, *Government* Members have spoken perhaps for 20 minutes, myself included up to now. Opposition Members, in particular the Leader of the Opposition has spoken for over an hour, and so, Mr Speaker, who is filibustering? I gave him the opportunity of simply saying, ‘Well, fair enough. I forgot Hassans represented the Sunborn’, and I would have got rid of the motion. I gave him that chance last time and I gave him that chance now again, but he wanted to get up and he wanted to make this defence. Well, Mr Speaker, where was the filibustering? It certainly was not on this side.

990 We gave him a way out, an exit, if the Giraldi motion is so important. Mr Speaker, where was the smokescreen if not in going off at a tangent and talking about issues, which he wants to bring up at every opportunity because he thinks that it earns him political points on the Savings Bank in borrowing and lending. Well, Mr Speaker, therein lies the smokescreen. So he says, ‘You are just doing this to filibuster’, and goes on to filibuster himself, although we had only been five minutes. He says, or they say, ‘It is a smokescreen, Mr Speaker’, and then they proceed amongst themselves to smoke all the cigarettes that

Spanish commentators say all of Gibraltar must be smoking in order to create the smokescreen to stop us from being able to get to the substance of the motion. They say one thing and then they do another.

He says that we are both partners of Hassans. Well, Mr Speaker, we clearly are. My declaration confirms that I am, and there is nothing wrong in that. I have a pecuniary interest. I have declared it, Mr Speaker. It is in the Register of Members Interests. There is no issue to be had there, Mr Speaker. He says that this motion is abusive. Well, Mr Speaker, if it is abusive, how is it that he has managed to spend 45 minutes dealing with it, most of that time not dealing with issues that arose on the motion?

And then he says that we will only win because Members on this side are subject to the principle of collective responsibility and they will be whipped to vote in favour of the motion, whatever they think. Well, unless it is not abundantly clear to him already, Mr Speaker, Members on this side of the House are not going to have to be told how to vote because that is actually not the way that we do it and that is not the way that Cabinet Government works, Mr Speaker. What he is looking at is a Cabinet Government, Mr Speaker. It may be the way that Governments work elsewhere, where there are Members who are not in the Executive and they have to be whipped to vote in a particular way, but, Mr Speaker, he has watched too much ‘House of Cards’ – the BBC version and the Netflix version. He is thinking too much of these great congresses and these great parliaments.

Mr Speaker, this is not about whipping Members of Parliament to vote in a particular way, this is an Executive of Members of a Cabinet, all of whom I would expect will *always* vote what they believe is the right thing to vote and not simply what a Chief Minister tells them to do. Those days, Mr Speaker, are over. They ended on the glorious morning of 9th December 2011 when the new dawn arrived, Mr Speaker, and people were free once more to make up their minds for themselves, even those who were in Government.

I can tell him, Mr Speaker, from recollection that I remember the embarrassing moment when he was told by the Hon. the then Leader of the House now, the distinguished – as the Hon. Father of the House has called him – backbencher, when he was about to get up, ‘Shh, shut up. Sit down’. Now that might have been one of the particularly shameful Parliamentary moments that he had in mind when he referred to it, or what whipping was about. But I can confirm to him that Members on this side of the House are free to vote on this motion *as they wish*, Mr Speaker, and free to make up something called ‘their minds’ for themselves.

Mr Speaker, he came up with a particularly ridiculous example of when the Chief Minister of Gibraltar has somehow waived a privilege or not respected the privilege of something that has been put to him. ‘A solicitor’, he says, ‘comes into your room and gives you the benefit of the advice he is giving their clients...’ I assume in the context of a meeting with their clients, and you then say that publicly you have breached the privilege.

Mr Speaker, this man, the Leader of the Opposition does not have a clue how a legal professional privilege arises and how it might be breached. How can someone say if you go and see the Prime Minister of the United Kingdom with your lawyer and your lawyer tells the Prime Minister of the United Kingdom what he is advising you, because you have allowed him to do so, the Prime Minister of the United Kingdom is not free to refer to that in public because you suddenly cover him with the cloak of privilege. Mr Speaker, I have not heard such nonsense, but frankly it discloses exactly how the hon. Member would like us to believe that the rules of conflict of interest are framed.

He says, however, that we raise these points, not because they are of substance, but simply to try to damage him and to stop him from being able to do his job. He says that the GSLP has form in this respect. Well, Mr Speaker, the Hon. the Father of the House has explained the form clearly and in perfect logic and he gave the example, Mr Speaker, of Mr Montegriffo. He gave the example of the hon. the backbencher and Triay and Triay, all of the things which the Hon. the Father of the House has referred to and were happening at the time that *he* was a Member of the GSLP, and he says, ‘And now it is *me*, Mr Speaker. Now they have got it in for me’. And I again heard him say, ‘In for me, in for me. They have all got it in for me’. To try and wake myself up of the soporific feeling that was coming over me (*Laughter*) because, Mr Speaker, I noticed immediately that he had left one out.

One of those partners of Hassans, who had had conflict thrown in their face and was required to leave the practice in order to be able to continue becoming a Member of this House, is *me*, Mr Speaker. I do not know why he did not refer to me. Is it that he has got it in for me, in for me, in for me? Or does he not recall, or maybe he does not really enjoy Parliament as much as I do and he does not read the old *Hansards* and he was not here so perhaps I cannot expect him to know. Does he not remember the number of times that the hon. the now much more docile, approachable and likeable backbencher (*Laughter*) used to put all these issues across the floor of the House and that I was required to leave my practice at Hassans, Mr Speaker, shortly after I was first elected?

Does he not remember, Mr Speaker, that Unite, the Union, at that time represented by a gentleman by the name of Raphael Benzaquen who is a member of his executive representing his own brother, Michael Feetham junior and Unite – brought a claim against me, Mr Speaker, trying to have me disbarred by a complaint to the Admissions and Disciplinary Tribunal because they said that I was politically behind

1060 something where Hassans, via his brother Nigel Feetham, had been involved advising on another matter? Does he not remember those things?

Is it that I am a black spot in his memory, Mr Speaker? A bit like Lady Macbeth's, 'Out, out, damn'd spot! Out'? Well this damn'd spot ain't going anywhere, Mr Speaker, and is going to be here to remind him of the way that they, when they were in Government, dealt with these issues – nowhere near what we have done, Mr Speaker – only say to him, 'Look, you have got something to declare'. Does the need to declare only have to arise when we are dealing with motions, Mr Speaker? Does it only have to arise when we are going to vote on a subject, Mr Speaker? The hon. Member is trying to rewrite the rules.

1070 The hon. Member needs to remember, in case he forgets, the cash for questions scandal in the United Kingdom. At Question Time, as much as at any other time, Members have to declare an interest if they have it, and if he does not want to declare interests and use the examples that he has used from Erskine May and the Rules of the House, is he telling the House that he will ask questions about things in which he has a pecuniary interest and not declare it? Because that, Mr Speaker, is the typical duality of putting one point, of pretending to be transparent, and yet saying, 'I am rewriting the rules in order to ensure that in the future I can ask questions about anything on which I have a pecuniary interest without having to disclose that'.

1075 He said, Mr Speaker, that either I was blissfully unaware of the plans of the Father of the House or something else. Well, Mr Speaker, do you know what I am blissfully aware? I am blissfully aware that after 16 years in Opposition the hon. the Father of the House is back in Government. I am blissfully aware that all those who wrote him off got it wrong and I am blissfully aware that he and I agree about at least one thing, that his influence in matters relating to the economy and public finances are absolutely in the interests of the public in Gibraltar. So will he now tell the public in Gibraltar to vote for Joe Bossano, the thing he has been telling them *not* to do for the past 10 years? Since he decided that he was not going to back him to get rid of the hon. now backbencher, he was actually going to have a Damascene conversion, and support the hon. now backbencher, who must to his clinical political eye looked more vulnerable than the hon. the Father of the House in order to be able to take over from him as Party Leader, something which he eventually did, although only as a result of a secret ballot not being allowed at that particular meeting of the Executive as the hon. Member sitting next to him has sometimes perhaps been thought to suggest.

1080 Well, Mr Speaker, certainly the way that he put his arguments might illustrate why it is that so often judges do not agree with him. He told me, Mr Speaker, that I am ignorant of Mr Bossano's secret plan for the economy. Well, Mr Speaker, again I remind him that we do not work in the way that what he now blissfully calls 'his Government' used to work. The 10 of us meet every Monday and we are all blissfully aware of everything else that the other is doing and of our *not* secret plans because we are the only political party, certainly at this election, but I believe in any election, that actually dares to tell the general public, when we ask them to give us their vote, how the GDP is going to grow, how we are going to lower their taxes and actually follow that plan to the letter in every Budget because, Mr Speaker, we have the benefit of the Hon. the Father of the House not having changed his spots and having demonstrated that he can do that in a number of successive elections. So, again, he can get up. He can say what he likes. He can call me ignorant if he likes, but that is the *objective* reality. Just go back to the manifesto, look at the pages on the economy and realise how we are following those.

1090 Mr Speaker, he talks about shameful episodes in Parliamentary history and I can think of a couple of those long before we were elected, Mr Speaker. But in fact, Mr Speaker, he just needs to get it into his head that the Government – his question – the Government neither directly nor indirectly is lending money to anyone. There is a company called Credit Finance Company Ltd and that company is the company that is lending money.

1100 Yes, it is true I said the Government is going to acquire the shares in Gibtelecom, and subsequently the shares in Gibtelecom were acquired not by the Government, but by the Gibraltar Savings Bank. But I thought, Mr Speaker, that at least out of professional courtesy he saw the interviews that I gave to GBC, either in direct democracy or otherwise, I forget exactly which, because at least Mr Speaker, I pay him the professional courtesy of listening to what he says in the broadcast media and not just here. He will have heard me say in the broadcast media that the financing and the manner in which we will acquire the shares is not yet determined. Mr Speaker; it is for that reason that subsequently the decision was made that the Gibraltar Savings Bank should acquire the shares in Gibtelecom for the reasons that have been ventilated and explained.

1110 Mr Speaker, the hon. Member did not want to come here to answer the succinct points made against him, he wanted to come here to raise the subject in debate that he constantly wants to raise about whether Credit Finance is a good thing or a bad thing and whether public debt is up or down – all of those things. We saw, Mr Speaker, how he quickly dealt with issues relating to the subject that we are debating, how he quickly avoided the substance of the complaint about whether these matters relate only to the Certificate of Fitness or whether it relates to the questions that were being put by him in relation to the Sunborn's loans etc. and therefore he wanted to move into a half-hour, I think it was, soliloquy on public finances and debt.

1120 What he did, Mr Speaker, in doing so is demonstrate to anybody who was listening that he had no answers to the substance of the argument. He had no answers to deal with the fact that the motion is short and clear.

Mr Speaker, the hon. the backbencher tried to come to his defence. He tried to say, ‘Well, look, put it this way. If something is in the public domain you no longer need to declare it when you are in the Parliament because you cannot mislead the Parliament by not declaring it, because the Parliament must have knowledge of it’, That is not what the rules are about, Mr Speaker. It is not what the rules require. 1125 *(Interjection)* The rules require that in Parliament...and the hon. Gentleman is going to suggest that I mischaracterised what he said and I am not going to give way because otherwise we are never going to finish, Mr Speaker. *(Interjection)* We are never going to finish, because as I told the Hon. the Leader of the Opposition, *Hansard* is there to demonstrate to all of us everything we have already said. So he may allow me to get on to say what I am going to say. *(Interjection)* Right.

The rules do not require simply that hon. Members disclose interest in matters which they have not already disclosed in the street or in the media, the rules require that Members disclose interests in this House, full stop, and that is where the hon. Member failed to disclose his interest, Mr Speaker.

So I am left, Mr Speaker, with one thing to say to the hon. the backbencher. As in the exchange he had with the hon. leopard, as we might start to call him, *(Laughter)* later on in relation to debt and public finances, his arguments, although flawed, at least sound good. There is logic to them and they try to go back to the point to obfuscate and smokescreen. At least, Mr Speaker, he had that ability. He had that ability to demonstrate that there was logic behind what he was saying, although skewed. That is, Mr Speaker, what so many supporters of his party miss and that is why they are haemorrhaging support.

1140 But, Mr Speaker, there was one more speaker – *(Interjection)* there was one more speaker *(Interjection)* on the other side. There was one more speaker and that was Mr Bossino, Mr Speaker. Mr Bossino at least spoke shortly to say that we were wasting our time on this subject and that we should move on to other matters. Mr Speaker, I give him that he spoke shortly on the matter. I believe I have replied shortly on issues which have taken the Hon. the Leader of the Opposition almost an hour to try to reply on.

1145 Mr Speaker, if this motion had no substance, why has it taken them an hour to try and wriggle off the hook that they made for themselves, Mr Speaker? If this motion had no substance, Mr Speaker, why did they not simply accept my invitation to move on? If this motion had no substance, no doubt I would be defeated because I do not whip my side, Mr Speaker. They can make up their minds for themselves. *(Interjections)* But, Mr Speaker, we will see –

1150 **Mr Speaker:** Order.

Hon. Chief Minister: - whether this motion has substance in two ways, Mr Speaker, in the result of the vote and in an analysis of just how long the hon. Member, like a tuna that is hooked and is trying desperately to get off, twisted and turned, twisted and turned, but managed only to get the hook in deeper.

I therefore, Mr Speaker, commend the terms of the motion to the House and seek the support of each of its Members.

1160 **Mr Speaker:** I now put the question in the terms of the motion proposed by the Hon. the Chief Minister. Those in favour? **Members:** Aye.

Hon. Sir P R Caruana: Mr Speaker, can the backbencher call for a poll?

1165 **Mr Speaker:** He can if he wants to. Whether we advance the matter any further remains to be seen, but you are entitled to, certainly.

Hon. Sir P R Caruana: If I am entitled to, I would like to –

Mr Speaker: Very well.

1170 **Hon. Sir P R Caruana:** – as I want to say no, personally. *(Laughter)*

Mr Speaker: Very well. I will – *(Interjections)*

1175 **Hon. Sir P R Caruana:** *[Inaudible]*

Hon. Chief Minister: Mr Speaker, if I might?

1180 Any Member is entitled to call for a poll at any time and the hon. the backbencher is entitled to do so and he has prompted me to think that I actually would like to say yes myself. So he has my full support in calling for the poll.

A division was called for and voting resulted as follows:

FOR

The Hon P J Balban
The Hon J J Bossano
The Hon Dr J E Cortes
The Hon N F Costa
The Hon A J Isola
The Hon G H Licudi
The Hon S E Linares
The Hon F R Picardo
The Hon Miss S J Sacramento

AGAINST

The Hon D J Bossino
The Hon Sir P R Caruana KCMG QC
The Hon D A Feetham
The Hon S M Figueras
The Hon J J Netto
The Hon E J Reyes

ABSENT

The Hon Dr J J Garcia
The Hon Mrs IM Ellul-Hammond

1185 **Mr Speaker:** There are two Members absent. Nine in favour, 6 against, the motion is carried. (*Banging on desks*)

Hon. Sir P R Caruana: I think we can all guess how [*Inaudible*] would have voted. (*Laughter*).

1190

**Hon. Daniel Feetham –
'In Touch' magazine; misleading statements and arguments –
Motion carried**

Mr Speaker: The Hon. the Chief Minister.

Chief Minister (Hon. F R Picardo): Mr Speaker, I have the honour to move the motion standing in my name, which reads as follows:

1195

'THIS HOUSE condemns the Leader of the Opposition for attempting to mislead the readers of the Gibraltar Federation of Small Businesses excellent magazine, 'In Touch', by the use of the following statements and arguments which are entirely false, namely:

that the Chief Minister compared Spain to North Korea at the United Nations;

that the Chief Minister associated himself with the comments of Dennis Matthews at the United Nations that Spain was a terrorist state;

that the Government had created a reef (which the Leader of the Opposition, in common with Spanish Partido Popular politicians describes as having laid 'concrete blocks') on environmental grounds when barely a few metres on it now plans a land reclamation next to the airport; and

that the Government is misleading the public on BOTH public finances and the strength of the economy.

And notes that the Leader of the Opposition is clearly prepared to ignore information provided to him in this House or pervert it in order to serve his own agenda and ambition, whether or not that misuse of information is damaging to the public interest of Gibraltar.'

Well, Mr Speaker, hon. Members have dealt with our previous motion suggesting that we are filibustering to avoid the debate of the next motion. Let them support us in not having to do so in this case and let us have a prompt debate dealing with this matter.

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Mr Speaker, the Gibraltar Federation of Small Businesses has a magazine. It interviews local political personalities and business personalities and this month, or this *season*, because it is published by season, was the opportunity of the hon. Gentleman to have his say to Members.

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Mr Speaker, this is a magazine that goes to members of an important business organisation and therefore it is important that the information that we provide to those business men and women is correct information and it should be corrected if it is not correct, Mr Speaker. There are two statements in the interview that the hon. Gentleman gave which are clearly misleading, Mr Speaker – in fact, they are absolutely wrong.

The first, Mr Speaker, is the first of the comments referred to in my motion. He says, when dealing with me and Frontier restrictions and whether or not I might have been involved in the matter, the following:

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‘Was it necessary to compare Spain to North Korea at the United Nations or associate yourself with the comments of Matthews that Spain was a terrorist state?’

1215 Mr Speaker, it does not seem to me that there is much room for doubt as to what it is that that sentence says. Have I ever compared Spain, or indeed Mr Margallo, etc, Spain, the Government of Spain to North
1220 Korea? I have, Mr Speaker. I did so in an interview during the course of August 2013. Was it the right thing to do? Well, Mr Speaker, clearly the hon. Gentleman does not think so, but I must tell him that if he was stopped by one lady down Main Street telling him that she was going to listen in – and I hope she is because it is important that Parliament be seen by as many in our community as possible – to tell him how much she appeared to sympathise with him on the subject of the motions, then I must have been stopped by thousands in August 2013 who told me that I was absolutely right to make that comparison.

1225 Was it at the United Nations, Mr Speaker? No, it was not. Mr Speaker, did I associate myself with the comments of Matthews – by whom I interpreted that the hon. Gentleman meant Dennis Matthews – that Spain was a terrorist state? Those comments were made at the United Nations. Mr Speaker, I did not associate myself with those comments. The hon. Gentleman asked me in this House whether I knew he was going to make those comments and I said I did not. I have not said anything in *any* interview which might remotely be suggested to support that I, in any way, am prepared to associate myself with a statement that Spain was a terrorist state. Therefore, Mr Speaker, those very damaging allegations are entirely deprecated. I do not accept that I said them and therefore certainly not of the North Korean issue at the United Nations or associate myself with Dennis Matthews’ comments that Spain was a terrorist state.

1230 Mr Speaker, the hon. Gentleman in the same answer goes on to say, asking himself this question:

‘Was it necessary for the Government to lay concrete blocks...’

1235 Mr Speaker, we call it a reef on this side of the House and for us it is a bit like Falklands and Malvinas. We do not think we have laid concrete blocks. We think we have created a reef, but in common with every Spanish politician that refers to the reef, the hon. Gentleman chooses to call these concrete blocks. Well, at least he does not say ‘spikes’, although they have spikes, but that is what the *reef* is about.

Anyway, he says:

1240 ‘Was it necessary for the Government to lay concrete blocks on environmental grounds when barely a few metres on it now plans a land reclamation next to the Airport?’

1245 Well, Mr Speaker, which reclamation is that? The reclamation planned next to the Airport is not something that we now plan. The reclamation next to the Airport is a plan that we inherited from hon. Members when they were in Government, a complex plan, Mr Speaker, that requires – as the hon. Gentleman will know – a lot of logistics to be in the right place and the rubble mountain and a lot of truck movements, and aeronautical studies and ensuring that things are done absolutely properly so that they do not have a transboundary effect. And the project, Mr Speaker, that when asked by hon. Members opposite, I believe specifically in respect of this project or reclamation generally, but I believe specifically about this project, I said we still believed was in the socio-economic interests of Gibraltar to ensure we were able to deliver when it might be logistically possible.

1250 Well, Mr Speaker, then it is not something that we are planning now – in other words, it is something that *they* were planning which we still plan to do. But we did not create a reef in an area which we are trying to protect environmentally to now create a reclamation – not that, Mr Speaker. Environmental protection and the creation of a reef and reclamations are things which cannot live side by side... in fact reclamations can sometimes create more marine life than they spoil, because the revetements are actually one of the things that create marine life.

1260 In fact, Mr Speaker, hon. Members might recall that recently we had to move a number of what most of us would call limpets – but have a detailed scientific name in Latin, which the Hon. the Minister for the Environment is not here to remind me of – in an area which is now considered to be of huge environmental importance, but which is actually a revetement to a reclamation created in the times of the GSLP. So he should not give readers the impression, Mr Speaker, that reclamations and environmental protection are things which are mutually exclusive. But, in any event, that is not something that we now plan.

1265 And, Mr Speaker, when he goes on to what are his Questions 7, 8 and 9, he suggests, Mr Speaker, that of course everything we are saying in relation to the economy is just not credible, is untrue and is not to be believed. Well, Mr Speaker, I actually do not think that he does Gibraltar anything other than a disservice when he does that. But Mr Speaker, that is a matter entirely for him, but our view on this side of the House is that what he said there, for all the reasons that have been ventilated on a number of occasions in relation to the debate and not least a few moments ago in the debate on whether he misled the House by failing to declare or failing to accept that he did not know that Hassans were instructed by the Sunborn... well, Mr Speaker, that is our position in relation to matters which relate to public finance and the economy.

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1275 Mr Speaker, we do not believe that it is in the public interest of Gibraltar that the Hon. the Leader of the Opposition, who holds an important post in Gibraltar... not a Constitutional Office, but an important post in Gibraltar – should be making statements which are misleading, for the reasons that I have set out.

Mr Speaker, I do not believe I have spoken for more than 10 minutes and therefore I trust that those who might wish to accuse me of filibustering will speak for less.

1280 **Mr Speaker:** I now propose the question in the terms of the motion moved by the Chief Minister. Does any hon. Member wish to reply?

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

Well, I am afraid, Mr Speaker, I am going to take considerably more than 10 minutes. I think that it is an important motion that the hon. Gentleman brings dealing with important issues.

1285 Mr Speaker, it must be the first time in the political history of this place that a Member of this House, let alone a Government, brings a motion that someone, a Member of the House, is misleading the public because of something that that person said in a magazine interview. Mr Speaker, it was not even my best, I have to say. It was not even my best interview, I admit that.

Mr Speaker, my Chairman, Mr Hammond, said to me when he read it:

1290 ‘A shame we had not finished’

– and I am quoting –

1295 ‘shame we had not finished developing our small business policies at the time...’

Because this interview, Mr Speaker, was given in November of last year; indeed you can actually see the poppy in my lapel. Can I have the magazine? You can actually see the poppy in my lapel. It was an interview that was done in November of last year and only published several weeks ago.

1300 And he said:

‘You know it reads like one of the Chief Minister’s interviews: nice photo, nice words, but rather scant on detail.’

1305 That is what my Chairman told me, and I said, Mr Speaker – (*Interjection*) No, no. Look, I am being as open and transparent as possible with this House, Mr Speaker, and I said, ‘I know. I do not like waffle or flimflam as much as Fabian does’... that is what I said to him, ‘but the last three answers in that interview on his handling of our relations with Spain and on his handling of the public finances of this community were absolutely excellent and I hope that people read those answers’. That was what I said to him. Mr Speaker, I want to thank the hon. Gentleman for giving me the opportunity of drawing the attention of

1310 the entire community to those three answers that I gave in the ‘In Touch’ magazine – no flimflam and no waffle in those answers, Mr Speaker. The problem with the hon. Gentleman in his handling of our affairs with Spain is that he has, and I am sorry to say, Mr Speaker, the propensity of engaging his mouth before he engages his brain, that is really the problem at the heart, the core problem that the hon. Gentleman has, and of saying one thing and then doing another and of being all things to all men.

1315 One day, Mr Speaker, he wants to be a worthy successor of the Father of the House, Mr Bossano, and be more hawkish than the largest eagle soaring the GSLP skies, Mr Speaker; indeed, trying very hard to soar in particular higher than the hon. the Father of the House and the next he is the champion of dialogue wanting to airbrush away everything that he has said. One day he is comparing Spain to North Korea and the next he is sending a missive to the former King of Spain congratulating him for his wonderful career just after he

1320 abdicated the Crown of Spain. Mr Speaker, I do not know whether that is symptomatic of the ideological tensions in his own Government that have been most evident in his handling of the fishing crisis or that it is a matter of personal chemistry. I have to say that to the hon. Gentleman, he just cannot help trying to be all things to all men, but he cannot expect to be all things to all men and not expect somebody not to pick up on it. Well, certainly whilst I am his political opponent and I am on this side of the House, as Leader of the

1325 Opposition, he cannot expect me not to pick up on it.

Every time, Mr Speaker, this is the reality and this is again at the heart of my criticism of the hon. Gentleman’s handling of our affairs with Spain. Every single time he opens his mouth on these issues, I sense a collective holding of breath by the community because people understand that the best way is always the calm, measured, intelligent way.

1330 Mr Speaker, the hon. Gentleman really is right. He did not say at the United Nations that... he did not compare at the United Nations Spain to North Korea, but, Mr Speaker, he compared Spain to North Korea in a BBC programme on UK national TV and also on Sky News, Mr Speaker; indeed there was more coverage – (*Interjection*) I will –

Hon. Chief Minister: Channel 4, Mr Speaker. (*Laughter*)

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Hon. D A Feetham: And BBC, Mr Speaker. I have gone back and done my research, because he is right. He did not say it at the United Nations and I am mistaken, but he said it on BBC Breakfast Radio. It was not Channel 4. It was the BBC Radio 4 ‘Today’ programme. That is the channel in which he made his comments (*Interjection*) and he said it in an interview with Sky News... absolutely. His comments, Mr Speaker, were probably more widely reported because he made them on Sky News and the BBC than if he had made them in the United Nations, and that is the reality. I made a mistake. I accept that I made a mistake in saying that he made them at the United Nations.

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The problem, Mr Speaker, with the comment that he has defended in this House, is not offending Margallo or the rest of his far right brigade, Mr Speaker. The problem, as I have told him on many occasions, is alienating all those Spaniards who do not agree with Mr Margallo his policy of punishment towards Gibraltar or the campaign of slander against this community including the *PSOE*, but who both he and I – whoever is Chief Minister after the next election – hope to persuade to sit down with us in the trilateral talks across a table, Mr Speaker, because it was the *PSOE* too that came out roundly condemning the comment comparing Spain to North Korea.

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He cannot hope, Mr Speaker, to champion the cause of dialogue for which one needs to be a valid interlocutor, in the sense that people will want to sit down with him if he insults an entire nation, Mr Speaker, because that is what we are talking about, instead of rounding on the man or his party – a nation. I have, Mr Speaker, absolutely no hesitation in standing here today and saying that Mr Margallo has behaved towards Gibraltar like the worst kind of dictator, but I will not compare Spain, as a nation, to North Korea, nor will I tarnish everyone in Spain with the same brush. I will not do it.

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And, Mr Speaker, I did go back and I listened to his United Nations speech and let me give you an example of what I mean. He may not have said, compared Spain to North Korea in the United Nations, but this is what he said, and I quote:

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‘The face of Spain that we see now is not very different than when the notorious General Franco was in power.’

Not the face of the PP Government. I would agree with him, that is the face of the PP Government. Not the face of Margallo, but the face of *Spain*, Mr Speaker, and that is the division between the hon. Gentleman and this side of the House.

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I have to say, Mr Speaker, that the hon. Gentleman should have the courage to stand up and defend his own words, as Mr Bossano has always had in fairness to him, the courage to defend his words when he utters them, Mr Speaker. He would not have stood here after comparing Spain to North Korea and want to draw the distinction between Spain and Margallo on the one hand and the PP. He has never drawn that distinction. It is a distinction that I draw now, and anticipating the point that I am about to make that he has sought to draw during the course of his own speech.

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Mr Speaker, the hon. Gentleman says that he did not associate himself with the sentiments expressed by Mr Matthews in his own speech at the United Nations. Mr Speaker, if a Chief Minister of Gibraltar travels to the United Nations with a self-determination group as part of one Gibraltar delegation, he cannot then be heard to utter the words, ‘It was not me, Mr Speaker’. That is the reality.

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Mr Speaker, this is the problem with the hon. Gentleman being all things to all men and it is the most feeble of excuses to say that he had not seen – as he told me in this House a number of months ago – that he had not seen the speech beforehand. If he goes to an International Forum, representing Gibraltar, he is responsible for what is said in the name of Gibraltar from one of the members of a Gibraltar delegation, whether he likes it or not, Mr Speaker. That is the reality.

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Mr Speaker, as to the blocks, he now says, ‘Well, the land reclamation project was a GSD project’. Well, Mr Speaker, he can scrap a GSD project if he wants to. He has done it before. The reality is that this is now as much his project as it was ours and the point that I made, rightly made in that interview, Mr Speaker, was that they have laid blocks on environmental grounds, and then a few metres further down next to the Airport they are also going ahead with the land reclamation. Mr Speaker, that is the simple point and it is also an *accurate* point.

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Mr Speaker, I will say this as well in relation to that, that the irony in relation to these blocks – and I will be saying something about this in a few moments... a bit more about this in a few moments – is that we have a situation where that reef has been laid by the Government or the blocks have been laid by the Government and you have Spanish fishermen coming into British Gibraltar Territorial Waters being photographed, habitually Mr Speaker, fishing in the area or on top of the area of the artificial reef, Mr Speaker. That is the absurdity of the current situation, but of course, Mr Speaker, he has opted to keep quiet about that.

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One of the parts of the interview which he has completely ignored, Mr Speaker, is and I quote something that I said:

1395 'What has been achieved by tearing up the 1999 Agreement which triggered off the current crisis when there is more fishing by Spanish fishermen than ever before?'

He has chosen to ignore that, Mr Speaker. Of course he has opted to keep quiet about that. The reality is that for all his championing of the rule of law in British Gibraltar Territorial Waters, the rule of law no longer applies in British Gibraltar Territorial Waters since *his* Government took Office in December 2011, Mr Speaker, and the decision to tear up the 1999 Agreement, without anything to take its place, Mr Speaker, amongst the calls from their activists of '*aqui no se pesca, aqui no se pesca.*' was probably one of the most monumental errors that any Government has ever committed. It has been described, Mr Speaker, as a rookie error and I think that is a quite apposite description.

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1405 Mr Speaker, I have told him before, the principal job of a Chief Minister is to keep the people of Gibraltar safe and secure. That doing away with the 1999 Agreement, without having anything in its place, created a huge sense of instability insecurity and uncertainty at the very beginning of his tenure as Chief Minister of this community, and for what, Mr Speaker? For zero gain, as I said in the course of my interview with the 'In Touch' magazine.

1410 Mr Speaker, the reality of the situation is that there is more fishing today than ever before. The reality of the situation is that it was his Government, for example, that instructed fishing experts –

Mr Speaker: Could I ask the Hon. the Leader of the Opposition to draw to a close this point about the 1999 Agreement because it is not in any of the paragraphs in the motion.

1415 **Hon. D A Feetham:** Mr Speaker, it may not be –

Mr Speaker: Very loosely, one can say that it is related to the artificial reef, very loosely, and to that extent I am allowing the hon... and also, of course, it is a matter that he may have raised in the article –

1420 **Hon. D A Feetham:** In the interview, exactly.

Mr Speaker: – which I do not have with me, but the whole of the article is not germane to the motion. Does he get my point?

1425 It is fair enough to make a reference, but he cannot go on and on and on about the 1999 Agreement and the mistake which he alleges that the Government made. You have made the point, but you cannot labour the point.

1430 **Hon. D A Feetham:** Mr Speaker, I accept the point that the hon. Mr Speaker has made, but Mr Speaker I think it is germane and it is noteworthy that of all the points that I said in that interview, he chooses to ignore the very point in which his Government has come for most criticism, and that is in the handling of the fishing crisis and in the way that they went from no fishing to now more fishing than ever in the space of effectively three years.

1435 But I will wrap up, Mr Speaker. I think it was in my view, Mr Speaker, for zero gain. In my view, Mr Speaker, there has been a monumental mismanagement by the Government of this particular issue which is symptomatic, Mr Speaker, of some of the mismanagement there has been in relation to the wider issue of the handling of our relations with Spain.

1440 But turning, Mr Speaker, to the public finances, because that does form part of the motion very directly by the Chief Minister, Mr Speaker, what we are seeing is a complete abuse of the democratic process and the laws to ensure that Governments do not borrow in a manner that becomes unaffordable for this community, Mr Speaker. I have already – in the context on the debate about whether I lied or misled this House in relation to the previous motion – very clearly set out the hon. Gentleman's catalogues of refusals to answer questions and keep half the public debt of this community, some £400 million, behind a veil of secrecy.

1445 Of course the Government, Mr Speaker is misleading the people of Gibraltar on the public finances, as I said in that article, and that, Mr Speaker, in my respectful view to this House, is down to him *personally*, Mr Speaker.

1450 Mr Speaker, the reasons for the present situation lie, as I have told him before and I will repeat every single time that I have an opportunity to say so... the big lie at the last election where he continuously told the people of Gibraltar that the public finances of this community were in a ruinous state, that the GSD was addicted to debt, whilst promising everything to everyone, Mr Speaker.

1455 Because let us not forget that at the root of what we are seeing – in other words, the attempt to have half the public debt of this community behind that veil of secrecy through the use of Credit Finance Company Ltd – are the promises that he made at the last election: £750 million in capital projects; the freezing of rents, rates and electricity; the cutting of public debt by half and the donating of every single last penny of

Government surpluses to Community Care, Mr Speaker. All those promises, Mr Speaker, and it was not possible to fund all those commitments by conventional means; it simply was not.

Mr Speaker, there are limited ways in which a Government can fund *huge* capital projects or recurrent expenditure: it can either borrow, it can either use its reserves or it can use its surplus income. But if you have a party led by a man, Mr Speaker, who is telling the nation, ‘Our borrowing is too high *ergo* we need to reduce it. Our reserves are too low’, as indeed he said many, many times in this House and outside it, ‘and I am going to donate every last single penny of Government surplus to Community Care’. Well, Mr Speaker, how an earth was he going to pay for it? Of course, that is the reason why we have a Credit Finance Company Ltd, because the Government would not have been able to fund the hundreds of millions of pounds on capital projects it promised and the huge increases in recurrent expenditure at the last election without it, Mr Speaker.

The implications for the public finances of this community are very serious indeed, because Parliament is unable to scrutinise what is effectively half the public debt of this community. The public debt is nearly £400 million net debt – a direct Government debt – and in addition, what we have is another £400 million of Government debt because the Government has to repay that money one day, and it is being used, Mr Speaker, it is being used importantly, for Government expenditure and Government projects and it is hiding that behind a veil of secrecy. And of course, Mr Speaker, not only does the Government guarantee all the deposits in the Gibraltar Savings Bank, but the hon. the backbencher himself has admitted – as I said in relation to the other motion... sorry the hon. the Father of the House (*Laughter*) that £347 million... Mr Speaker that is not a statement of intent, that I want him to retire to the backbenches. I assure him that really I feel safer with the hon. Gentleman on the front bench advising the hon. Gentleman about the public finances of Gibraltar than I do if he was not there.

But, Mr Speaker, £347 million by the Government, by Minister Bossano’s own admission, is being used in order to fund the expenditure requirements, the cash flow requirements of Government-owned companies, Mr Speaker, and the reality is that the Government could not have borrowed an extra £400 million directly – it could not. Why? Because the net debt is already nearly £400 million and, as we know, on the economy at the size of which it is today the Government would only have been able to spend out of monies that he has borrowed another £43 million. It would have been impossible, Mr Speaker, because there are laws that are in place to prevent Governments from borrowing in a manner that becomes unaffordable for this community and they could only have spent another £43 million, Mr Speaker. Hence why they have had to effectively transfer £400 million from the Gibraltar Savings Bank into Credit Finance Company Ltd and then used it in order to fund Government expenditure and Government projects because part of that money has actually flowed down to GJBS, which is currently engaged in about £200 million worth of Government projects, Mr Speaker.

Mr Speaker, the reality – and I would be remiss to the people of Gibraltar if I did not make the point very clearly, Mr Speaker – is that the Government does not have the money to pay for, directly, the Power Station, even on their estimate of the Power Station, which is £77 million. They just simply do not, that is the reality, hence why they needed to create this scheme through Credit Finance Company Ltd and transfer £400 million of savers’ money. That is the reality, Mr Speaker, and indeed the proof of the pudding is in the eating because the shares of the Slovenian company in Gibtelecom cost about £30 million, I think it was. The hon. the Father of the House will correct me if I am wrong, but I think it is about €37 million.

The fact that it is not the Government that is actually paying for those shares, but the Gibraltar Savings Bank, actually supports the point that I am making. The Government would not have been able – unless it wanted to really get within £10 million or less from the legal borrowing limits – to have paid for the purchase of those shares directly itself. This is what we are seeing, Mr Speaker, and this is unprecedented in the political history of Gibraltar. A Government that is willing to ride roughshod, Mr Speaker, over legal borrowing limits. An architecture which this Parliament has been introduced, very carefully introduced, in order to ensure that no Government borrows in a manner that becomes unaffordable to this community, and also then, Mr Speaker, keep it from the scrutiny of this House by then refusing – as I demonstrated in the other motion – by refusing to answer questions about the Sunborn and about loans provided by Credit Finance and about exactly how the money that has been placed in Credit Finance has actually been spent, Mr Speaker. For those reasons, I do not resile one word of what I have said, Mr Speaker, in relation to that part of the interview, in relation to the management of public finances and the economy.

Let me say this – just a final point, Mr Speaker – that it is all very well for the hon. Gentleman at Budget time to come to this House and say, ‘I have a £70 million surplus. The Government has a £70 million surplus’. Mr Speaker, it is complete nonsense. If the Government has just used £400 million from Credit Finance in order to pay for expenditure that the Government would have of its own pocket have had to pay, of course it is going to have £70 million of Government surplus because it is using the Gibraltar Savings Bank in order to effectively defer expenditure that is properly the Governments, Mr Speaker. Because if the Government had spent that £400 million, if the Government, for example, had paid

£347 million to all those Government-owned companies, which the hon. the Father of the House admitted had been paid, if the Government had done so directly, it has £347 million *less* than it has now.

1520 So, Mr Speaker, he cannot crow about a £70 million Government surplus or whatever it is going to be the surplus – I have no doubt he is going to produce a substantial surplus at Budget time – because the reality is that the Government’s books, as a consequence of everything that he has done as Chief Minister of Gibraltar, as a consequence of that it really cannot be trusted, Mr Speaker. It cannot be trusted as a true reflection of the public finances of this community and indeed as to the state of the economy. (*Banging on desks*)

1525 **Mr Speaker:** Does any other hon. Member wish to contribute to the motion?
The Hon. Mr Bossano.

Hon. J J Bossano: Mr Speaker, the hon. Member opposite clearly likes to hear me, because he keeps on saying things that he knows I will not be able to resist.

1530 Obviously the hon. Member no longer thinks like he used to think when he was GSLP. (*Laughter*) So, although I thought he had made a mistake in the move that he made, I am now revising that opinion because I think he really does not belong, and maybe he never did ever belong with us.

1535 Look, if the hon. Member is worried about Spain being upset with North Korea comparisons, I do not think the GSLP would have been very worried about this... you never know who people like to be compared with or not. Suppose North Korea does not like being compared to Spain. I mean that is a much more dangerous proposition. (*Laughter*) They are a nuclear power. I have tried to find out what the feeling is like in North Korea, but I have not had any feedback so far.

1540 If there are now Spanish fishermen catching more fish than ever on our reefs, then why are they so upset that we put the reefs there and complaining that they are catching less? (*Laughter*) I could understand the level of contradiction and ignorance on fishing and on North Korea, but what I cannot understand is the same level being displayed on things on which he has raised questions before and been given answers before. I have got a dilemma, Mr Speaker, when I stand up to follow him, because I say to myself, well look, I have told him where he is getting his numbers wrong three or four times. Now he keeps on getting them wrong. There are two possibilities, either he is so ignorant of the subject matter that he cannot follow the helpful explanations that I give him or else he does not really care about the explanation and he is going to keep on saying the same things whatever explanations I give him. My dilemma is that if it is the second then it does not really matter because whatever the explanation he is still going to say the same thing, but if it is the first, I may be making a mistake in helping him because eventually he might get his act right and then he might become more difficult to contradict if he learnt to get the sums right.

1550 So I can tell him that certainly his comments in this article are not very enlightening. The hon. Member says, ‘Anyone who knows anything about economics knows that economic growth funded by borrowing is simply deferred taxation’. Cameron is going to an election this month, not very far away, *precisely* on the opposite proposition. The entire global economy is engaged in something called quantitative easing, on the basis that the engine for economic growth is banks printing money, which is effectively Government selling debt to central banks. He says, ‘Everybody that knows anything about economics knows the very opposite’ – not true. Nobody that knows anything about economics says such a nonsensical sentence as the one that he wrote in this article.

1560 The entire global business community does something which is called gearing, by which they invest more than they have and they make a profit because the result of borrowing and investing at a margin means that the equity holders get a better return. Without borrowing, we would be living like the Neanderthals in Gorham’s Cave. Does he not know that? It is true that in opposition the GSLP on occasions criticise the level of debt – yes, but it is also true that I never did, because in fact the learned backbencher would point to that distinction on more than one occasion and I always said the important thing is not how much you borrow; the important thing is how you use the money that you borrow, because if you use the money profitably, then you make money which allows you to service the debt, pay the loan and have money left for something else.

1570 So if you borrow £100 and you waste it, that is bad borrowing. If you borrow £1,000 and you make a lot of money, that is good borrowing. So the essence of the judgement on borrowing has to be, in my judgement, whether the money is going to result in the creation of growth. He is saying that borrowing is incapable of creating growth. Well, no, that is what borrowing should be for, *precisely* to create growth. What you do not do is borrow to pay for pay rises because then you can never escape that debt trap.

1575 It is true that there is a ceiling on the debt, but the ceiling on the debt, surely he must know, is a ceiling that was introduced by the previous Government, a ceiling which he used to criticise by the way, because he used to criticise it when it was £100 million. Yes, he criticised me for not agreeing with him and agreeing with the Hon. Mr Caruana in the debate of 2003.

Hon. D A Feetham: Will he give way and I will explain to him?

Hon. J J Bossano: Yes, I will give way, of course, I always give way.

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Hon. D A Feetham: Mr Speaker, I am very grateful to the hon. the Father of the House for giving way in relation to this particular point.

The point that I made in 2003 was this, that the legal borrowing limit, and this is pre the new constitution, was £100 million. The then Government had borrowed over £80 million – in fact I think the budget was £78 million, but by the time of the General Election it was about £86 million. And the point that I was making there, and indeed is consistent with the point that I have always made on this particular issue, was that the then GSD Government had entered into a PFI arrangement in respect of the Hospital, which was off balance sheet, and then if you took into account that off balance sheet borrowing, it would take it over the £100 million.

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Indeed, I think that I was right in relation to that. Not only was the point well made, but also the use of PFI arrangements, of which I was critical, and he and the hon. the backbencher were as one in relation to this particular point... now it is accepted that PFI arrangements should form part of the public debt. There has been a report in Parliament in the United Kingdom. So indeed my criticism of Credit Finance is exactly the same as I made of the hon. backbencher at the time. I do not like debt that is off balance sheet because it does not give a true reflection of what is the public debt of the community, and that is the point that I wished to make and I think you for allowing me to make it.

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Hon. J J Bossano: Mr Speaker, I think my memory of what he said is better than his memory of what he said (*Interjections*) but I will make a point of getting it and sending it to him in writing so that he will see that I am right. (*Laughter*) I know that he has criticised the PFIs, I know that, but on that debate on the radio he was not criticising the PFIs. On that debate over the radio where he was criticising the £100 million, which he said was due to mature and would have to be rolled over. (*Interjection*) Well, I will get it for him.

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The point is, Mr Speaker, that it is true that before he joined the dark side he used to criticise it, that is true, but he stopped criticising it and started doing it when he joined them because it did not end with the hospital, it carried on in other areas. I remember on one particular occasion, for example, when I noticed from the opposite benches a figure of £20 million, which did not seem to add up with the figures that had been provided to me on a big list of numbers – I have the advantage that I can home in to numbers, which many other people do not – and when I asked, ‘What is this?’, the Hon. Chief Minister said he could not remember and I found that odd. I mean, £20 million is not pocket money, in fact –

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Hon. D A Feetham: That is what I say about the Sunborn loans [*Inaudible*].

Hon. J J Bossano: Of course, I know you do that but the £20 million was money that he had borrowed but had forgotten to tell us anything about and he was going to do it to buy shares in a private company run by Mr Pardo to do the central thing – (*Interjection*) Midtown, I mean, and that was something that he did not object to. I did not object to it either, I just asked what it was for and they could not remember, and it took more Houses and more questions before the memory all came back and the amnesia disappeared.

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Well, look, if the hon. Member wants to criticise the principle of the thing, he cannot criticise the principle of the thing because something is happening now with £100 million, which before happened with £10 million, because of course every year you will find that the volume of money gets bigger, simply because everything that we are doing in a growing economy is related to a growing economy. The hon. Member has never yet – since he started speaking on the level of debt – never yet talked about debt except in absolute terms. Talking about debt in absolute terms, if he cares to speak to his learned backbencher, is being an economic illiterate. We were constantly told, ‘You are an economic illiterate because you say the debt is £100 million. You must not say it is £100 million, you must say it is 10% of GDP or 5% of GDP and that is the only measure that counts’. I do not mind him using figures, but he belongs to a party that considers that to be evidence of illiteracy, unless of course now that he is leading it, the doctrine has changed, but in other areas it does not seem to have changed.

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I must say that I tended to agree with him that when the questions that he answered in this article were printed and I read them – I do not read very much these days, but they sent it and I saw his picture on the front and thought maybe I can find out what he is up to – (*Laughter*) and what do I find? What measures does the GSD have in mind to help benefit the small business community? Ah! This is one of the areas, like so many areas, that we are taking soundings and consulting businesses as to what their concerns and requirements are, *ergo* – to use the new jargon that I have just heard from him and his predecessor... *ergo* I have not got a clue. (*Interjection and laughter*) I mean my Latin is a bit rusty since they stopped using it in church and they went into English. (*Laughter*)

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1640 We have taken a view that as a responsible Opposition we have an obligation to spell out our policies and ideas in any given areas. For this reason we have already announced many months that our policy ideas and important matters... Well, look, all the policy ideas that he started spelling is that he is going to go around asking people what they want. I was impressed last time and I responded to him when he said that it is not in Gibraltar's interest that political (*Interjection*) debate should be about an auction for votes by seeing who promises to do more. I agree entirely with him on that and therefore I was a bit disappointed because he seemed to be heading in that direction and I believe that he was right in what he said the last time and it is a philosophy that I agree with. I think we have to commit ourselves to doing the things that we think are needed and we believe we can afford to deliver. (*Interjection*)

1645 We may have different priorities – that is to say, one party may attach more importance to one thing and another party to another – and then the choice for the people is whether they want a particular direction or another direction. But if we all promise everything to everyone and then it is just a question of how much more we can do, the answer is that in the long run we will all live to regret it, and therefore I have to tell him that although I will not be correcting his figures on this occasion, I am afraid they are not right. (*Banging on desks*)

Mr Speaker: Does any other hon. Member wish to speak on the motion?
I call upon the mover to reply.

1655 **Hon. Chief Minister:** Well, Mr Speaker, I am grateful to the hon. Gentleman for now having accepted that this is an important motion that I bring, because a few minutes earlier, or at least three hours earlier, he said that the motions that I brought were just a waste of time designed to filibuster. So the duality, Mr Speaker, returns – one minute we are told one thing, the next we are told something else – but something quite dramatically different. One moment we are told something is worthless and the next moment we are told something is of huge value. So one moment it is black and one moment it is white. You would not really expect that, other from somebody who one moment was GSLP and the next moment is GSD. I reminded him, Mr Speaker, in my first Budget reply that he really does remind me of a soldier sometimes: left, right, left, right. We just do not know which side he may be on on a particular day.

1665 But, Mr Speaker, he says that this is the first time in the history of this Parliament that somebody has brought a motion about something in a magazine, as if to say about something outside of this House. Well, Mr Speaker, he must really have a short memory because in September 2011, the hon. the now backbencher, as Chief Minister at the time, as the Leader of the House, brought a motion not about a magazine, but about my Facebook page, Mr Speaker, and something that I had said there. (*Interjection*) He called that, Mr Speaker, magnificent exposition of the financial situation in which Gibraltar found itself at the time a 'grubby podcast', Mr Speaker – a grubby podcast.

1670 Mr Speaker, I must be a bit behind Mr Speaker, I must be a bit behind, because I always consider myself to be avant-garde, in terms of technology, and I have not brought a motion about something happening in on Tumblr. I have brought in about something happening in the old paper form of magazine. Perhaps I should have gone for the Issuu Issue version of the magazine online and quoted that in the motion and the hon. Member might not then have drawn this distinction, because this is not the first motion that is brought about something that has happened outside of this House or said by a Member of this House outside of this House, and he was here, Mr Speaker. I forget where he used to sit, Mr Speaker, to be told to be quiet when the Hon. the Leader of the Opposition wanted him to. (*Interjection*) I think it was in that region, but he must have been asleep at the time, Mr Speaker, because this is clearly not the first time that such a thing happens and therefore, Mr Speaker, he is wrong about that as well.

1680 But he accuses me, Mr Speaker, perhaps in an accusation as erroneous as all the others – and I note that he seems to be sleepy, but we are expecting him to speak on the next motion, Mr Speaker – that I engage mouth before brain. Well, Mr Speaker, I will let others be the judge of that, because I clearly cannot accept it. I would not do it if I accepted that. I would not do it if I knew I was doing it; but let us let others be the judge of one and not try to be judges of ourselves, for reasons that I will come along to in a moment in relation to certain of the other accusations that the hon. Gentleman makes.

1690 But he says that I engage mouth before brain. Is it that that was exactly what he was doing when 180 minutes ago he described the motions I bring as a waste of time, only to now describe one of them as actually a very important motion? Or is that what was happening when he was sitting here as a Member of the Government when a motion was brought about something happening in Facebook and he now says that this has never happened before?

1695 Mr Speaker, the hon. Member says things which are demonstrably untrue, as I have now seen he accepts about some of the things he said in 'In Touch', to such an extent that he gives credence to Bernard Shaw's statement, Mr Speaker, that politics is sometimes the paradise of charlatans. He says that people hold their breath when I am about to speak on the subject of Spain –

A Member: Collective breath.

1700 **Hon. Chief Minister:** That people hold their collective breath when I am about to speak on the subject of Spain because actually things are better handled calmly etc, as no doubt he would wish people to impute *he* suggests *he* would handle matters if he were ever in a position of authority to do so.

1705 Well, Mr Speaker, I know when people held their breaths that summer. People held their breaths that summer, Mr Speaker, when once again, like the erstwhile Ken Boon of the television series of the same name, he got on his white charger – I think he might have been in France on holiday that September or August, Mr Speaker – to come back to Gibraltar to help the Government in dealing with the aggression from the Spanish state. He went on television or radio and was reported in the *Gibraltar Chronicle* as saying, ‘Of course I will be prepared to remove the concrete blocks’. Gibraltar collectively took a deep breath and thought what sort of political animal is this, the like of which we have not seen before, who is prepared to bend his arm or allow his arm to be bent with the pressure that has been put to bear on our community? Today on this subject, tomorrow on another and on the third on the issue of sovereignty.

1710 He tuts, Mr Speaker, but the headline in the *Chronicle* was very clear and his words were not capable of another interpretation, to such an extent that he spent most of the next month trying to say that he meant something different.

1715 So if I have heard the sharp collective intake of breath once in this community, it was then. It was then, Mr Speaker. A sharp collective intake of breath demonstrating the concern that the man, who the party in Opposition were putting up to be Chief Minister might be of the ilk that one day he might have a position of responsibility and his arm may be as twistable as he demonstrated on that day it is on a subject as important as our defence of British Gibraltar Territorial Waters. Not quite, Mr Speaker, the negotiator that people will want to put in the chair that I have the privilege and honour of incumbing the will of the people of Gibraltar.

1720 Mr Speaker, he says that he accepts – and I commend him for it – that I did not say, as he said, to the magazine that I had compared North Korea to Spain at the United Nations. He says that it is worse, Mr Speaker. I was wrong in the magazine, but it is worse. ‘You did it on Sky News and the BBC’, and I say to him also on Channel 4, worse because it went around the world. Not worse, Mr Speaker, but well thought out, calmly delivered, designed to go around the world, and in that way what had always been a little local difficulty for the world that Spain could get away with, bullying us, setting up the queues... and when I say Spain, Mr Speaker, of course I do not mean my cousins in Los Barrios (**A Member:** Or La Línea) or La Línea.

1730 Mr Speaker, what we managed was that by artfully ensuring that we captured the imagination of the world’s media, Spain, its *Partido Popular* Government, and of course, Mr Margallo were exposed to the scrutiny of the world’s press that then saw what was happening here and we soon were able to use that as leverage. Are relations as they should be? No. Have we been able to cure the ill with whom Mr Margallo was obviously elected? No, Mr Speaker, but I challenge him to say that he would be enjoying a cosy relationship with Mr Margallo because there is only one way that he might be enjoying that cosy relationship.

1740 But by comparing Spain to North Korea, Mr Speaker, at that moment what we did was manage to get the world’s attention, because the world’s attention was not on us when we had queues of three and four hours, because that was just a little local difficulty in Gibraltar. The Hon. the Father of the House was ahead of him in reprimanding me for that, Mr Speaker, for that comparison, for that odious comparison as the Father of the House saw it, because given his socialist credentials he does not see that there is necessarily anything wrong with North Korea and I should not have been comparing the behaviour of Señor Margallo with them.

1745 The hon. Gentleman has been left with having to say, ‘But because you didn’t say the Government of Spain or Mr Margallo or the *Partido Popular* you tarnished the *whole* of Spain with that brush and you therefore annoyed everyone in Spain, even those who might be our erstwhile friends’. Mr Speaker, he has got it completely wrong, and the proof that he has got it completely wrong is that in international politics, in international *diplomacy* even, and politics and diplomacy are two different things and politicians are not diplomats... officials are diplomats. Politicians are politicians. One often might refer to a nation when representing the actions of its Government. Spain does it of us. We do it of Spain. Spain does it of the United Kingdom and the United Kingdom does it of Spain.

1750 The hon. the backbencher when he was addressing the United Nations on a number of occasions when I was proudly there with the Father of the House, would often say, ‘What Spain cannot do, what Spain cannot sustain...’ and he was not required to say ‘what the Government of the United Kingdom of Spain... what the political party that is today in Government in the kingdom of Spain’. Mr Speaker, in the United Nations you need to give a speech quickly, in eight minutes sometimes. It is not fair that we should only have eight minutes, but that is sometimes what we have and we cannot say, ‘The Government of the kingdom of Spain’ every time that we have to say it and neither do diplomats or politicians and everybody knows what

1760 is meant by it, but perhaps he is the only one who does not know. Perhaps he is the only one who thinks that I was comparing the Government of Spain that did the Trilateral Agreement, which we support, and the Córdoba Agreements, parts of which we support, with the Government that was setting up the seven hour queues. Everybody else knew that that is what we meant.

1765 In fact the hon. Gentleman, in throwing my words back at me, has made the point more eloquently, inadvertently of course, because I said, ‘The face of Spain that we see today is no different to that to which we saw in the 1950s and 1960s that is reminiscent of North Korea’. The face of Spain is not my cousin in *Los Barrios*, is not the magnificent Gemma Araujo in *La Línea* of the Socialist Party. Is not Señor Moratinos, because they were not the face of Spain in August 2013. Unfortunately we might all think – although who the Spanish people choose as their government is a matter entirely for them – the face of Spain is its Government, the *Partido Popular* Government. Mr Speaker, am I the only one who thinks that
1770 the comparison between Spain and North Korea was apposite?

Mr Speaker, the Foreign Affairs Committee of the Westminster Parliament when they were analysing the matter of Gibraltar – and they actually came here and took my evidence at the Garrison Library and they invited representations from third parties, although I note the hon. Gentleman did not bother to even ask them for the opportunity to address them – produced a table in their excellent Report, and the Foreign
1775 Affairs Committee of the Westminster Parliament often does ride in at just the right time to push the executive, the British Government, in the right direction. The hon. the backbencher had the benefit of that in 2002, 2003 and in the late 1990s, and I had the benefit of it in Gibraltar two years ago. The Foreign Affairs Committee included in their findings a table that set out the nations – the ambassadors of whom had most been called to the Foreign Office for a ticking off, i.e. a cup of tea – and in that table the Foreign
1780 Affairs Committee thought it was appropriate to include North Korea, Mr Speaker. Useful, Mr Speaker, in particular for one reason, because their ambassador had been called in twice less often than the Spanish ambassador being called in over Gibraltar.

Well, Mr Speaker, moreover, this is not the only time that Spain has been compared to North Korea. A Spanish magistrate, his name is Elpidio José Silva was recently being dealt with by the Spanish Supreme
1785 Court in Madrid and he said that the standards being applied to him in justice were reminiscent of North Korea. So at least that is one Spaniard who agrees with me, Mr Speaker. (*Laughter*) I follow the Spanish news and this was the lead on the *Televisión Española* news on one particular occasion. It is clear the hon. Gentleman does not.

But what annoyed Spanish public opinion about something I said at the United Nations was not the comparison with North Korea – and it is true I said something at the United Nations...not that because I did
1790 not say it at the United Nations – that led to my statements being deprecated not just by *Partido Popular* politicians, but also by Socialist Party politicians, and the hon. Gentleman should know what it is. I rely on him to know what it is, because he is the Leader of the Opposition and he could be in Government. That is what politics and democracy is about, but he needs to know these things. He is paying more attention to that than to some of the things that he is obviously paying attention to.

I was deprecated by politicians in Spain on both sides of the *Partido Popular* and Socialist Party divide for having told the Fourth Committee, I believe – not the Committee of 24, but I believe the Fourth
1800 Committee – that a Spanish Guardia Civil vessel had shot at a Gibraltarian jet skier a rubber bullet in British Gibraltar Territorial Waters. I stand by what I said. I have seen the video evidence. A complaint was made to the Royal Gibraltar Police. The Royal Gibraltar Police elevated that complaint to both the Government of Gibraltar and the Convent. The Convent and the Government of Gibraltar elevated that complaint to the Foreign Office and the Minister for Europe sought explanations in writing from his counterpart in Madrid. The explanation of course was eventually that it did not happen, despite the video
1805 evidence. That led to my being condemned by the *Partido Popular* politicians and Socialist Party politicians and by the union that represents the Guardia Civil.

If what the hon. Gentleman is telling the public in Gibraltar is that if a Gibraltarian is shot at in British Gibraltar Territorial Waters and there is video evidence of that, the complaint is elevated by the Royal
1810 Gibraltar Police to the Government of Gibraltar and the Convent, the Convent and the Government of Gibraltar elevate that complaint to the Foreign Office and the Minister for Europe and the Minister for Europe puts that complaint in writing – therefore also believing in it because we have all seen the video evidence – that the Chief Minister of Gibraltar should not reflect that at the United Nations when he goes to report to the Fourth Committee which is looking at the Article 173 Report made under the charter, which the colonising or administering power is making to the Fourth Committee, should not report that because it might annoy Spanish political representatives... in fact, all of whom I have been trying to curry favour with
1815 the union of the Guardia Civil, despite it being clear that it happened – then Mr Speaker, that is another piece of *crucial* evidence of what the hon. Gentleman might be like as a Chief Minister.

It is one thing to say that you do not poke your finger in peoples’ eyes just to annoy them, but it is quite another to say, when the heat of international public opinion is focused on Gibraltar, ‘I might remove the blocks’ – sharp intake of breath from the community. It is quite another, Mr Speaker, to say, ‘I don’t want

1820 to see Spanish politicians annoyed with us and therefore I would not say at the United Nations things that
 might annoy them'. Whether the Socialist Party is annoyed or the *Partido Popular* is annoyed, we have
 lots of friends in the Socialist Party, very few but some friends in the *Partido Popular*, but when things
 happen they must be elevated to the right level. Indeed, Mr Speaker, in the time that they were in office and
 in the time that we were in office, when the hon. the Father of the House returned to the United Nations,
 1825 there have been occasions when we have had to say such things.

The hon. the backbencher has on occasion referred to Frontier queues in the time before the 2003
 election of the Socialist Party in Madrid, when he had to deal with señor Matutes and after that with señor
 Piquet when he was reporting the conniving attempt by the then British Government and the Spanish
 Government to deal with the joint sovereignty issues. We annoyed everybody, Mr Speaker. In fact I daresay
 1830 that I have not yet managed to annoy the British Government and the Spanish Government and even the
 Spanish opposition probably at the time as much as the hon. the backbencher managed to do in 2002-03
 with the full support of everybody in this House and in the rest of Gibraltar when he was defeating, with the
 support of all of us, the joint sovereignty attempts by the United Kingdom Government.

But to have a Leader of the Opposition, who is seriously saying, 'You have got to mind your *Ps and Qs*
 at the United Nations, whatever it is that you may be reporting', is absolutely wrong. And in *his* mind, my
 comparison of North Korea and Spain and the report of what happened on that water, on that day, risking
 the life of that Gibraltarian when he was shot at with a rubber bullet by the *Guardia Civil* are all one. He is
 absolutely wrong to rule out the fact that you sometimes have to put yourself in political harm's way
 because your job is to defend Gibraltar and the Gibraltarians and to tell the UN what is happening, how it is
 1840 happening and when it is happening.

But, Mr Speaker, that tangentially led him to say that he was going to comment about the Fishing
 Agreement, and he said, 'Now there is no rule of law in Gibraltar because of the way that the hon.
 Gentleman has dealt with the Fishing Agreement. Previously there was and now there isn't'. For all my talk
 of the rule of law, he said of me, the rule of law is now something which is no longer respected since I took
 1845 over. Mr Speaker, we have had this debate on a number of occasions. To respect the rule of law one has to
 say that the law should be applied fairly and equally to all, without discrimination or distinction. We make
 laws in this Parliament. We do not enforce laws. The hon. Gentleman seems to think that if he is in
 Government, he is responsible for the *enforcement* of laws, and he has already on a number of occasions
 suggested what he might do in that respect. Well, Mr Speaker, another third piece of evidence of why
 1850 people might want to think twice before ever giving him the responsibility of being Chief Minister.

Mr Speaker, what does drive a coach and horses through the rule of law is to have an agreement
 between the Government – in particular a Government which involves him, because he was a member of it
 for four years – that allows third parties, namely people from outside Gibraltar, to offend against a
 particular Act of this Parliament and allow that to happen by agreement – that is a real driving of a coach
 and horses through the rule of law. That, Mr Speaker, as I have often told the House, is what we interpret
 1855 the 1999 Agreement to be, since the days that Joshua Gabay, more eloquently than I ever will be able to,
 put the argument in 1999 to the hon. then leader of the House. But let us have an objective assessment of
 the subject, Mr Speaker, of whether the rule of law is respected in Gibraltar since I took over or not, without
 regard to what was happening before. Let us just deal with his allegation that under me the rule of law is to
 1860 be considered not being observed.

Well, Mr Speaker, as the House knows – and I was very humbled and privileged to accept – a citation
 came from London from the Minister for Europe to his Excellency the Governor proposing that I should be
 appointed Queens Counsel on the basis – and this is their citation, not mine – of my commitment to the
 observance of the rule of law. Mr Speaker, the proposal of the Minister for Europe was accepted by his
 1865 Excellency the Governor, on behalf of Her Majesty the Queen, given that that is his role and the
 representation in Gibraltar, and by the Supreme Court of Gibraltar. If I had to choose who to be judged by,
 Mr Speaker, objectively, fairly and without any reason politically for wanting to propose the opposite, I
 would rather be judged by the Chief Justice in the Supreme Court, the Governor and the Minister for
 Europe than by him. Mr Speaker, I am now very proud indeed that the grandchild of the Attorney General's
 1870 maid is now a Queens Counsel on the basis of that particular citation. Mr Speaker, but perhaps there is
 another opportunity... that is a reference, Mr Speaker, to the fact that my grandmother used to be a maid for
 the Attorney General in the 1930's and she is from Los Barrios, which is where my cousins, who were not
 so annoyed at my remarks at the United Nations, come from, just to explain it to him, Mr Speaker.

But to say that the whole community has seen the undoing of the Fishing Agreement without a
 replacement is something which enjoys universal condemnation and exposed me to criticism. Well,
 1875 Mr Speaker, it exposed me to criticism from him constantly, because he has got very few arguments and he
 makes them all the time although none of them are valid. But, for example, it did not expose me to criticism
 from Louis Wink because when I met Louis Wink, who was then Commissioner of Police, the week after
 we were elected, not three months later when the Hon. Mr Cortes confirmed on Facebook that I had done,
 1880 on behalf of the Government and in implementation of our manifesto commitment... when I told Louis

1885 Wink that the Government did not consider that he should be bound by the 1999 Fishing Agreement, Louis said to me in that usual earthy tone for which he is famous, ‘Mr Picardo, Chief Minister, thank goodness, I feel liberated at last. That Agreement was untenable. It stopped us from doing what we had to do. Now we are free to act in the way that we consider is appropriate. It should never have been done.’ So regardless of what *his* recollection might be, at least I have the comfort of knowing, Mr Speaker, that one of his executive members agreed with me at the time.

1890 Mr Speaker, the hon. Member then went on to talk about public debt and lack of transparency and said it is all my fault. I did not know whether to be heartened or concerned, Mr Speaker, because in speaking to the other motion, again the duality came in. Speaking to the other motion he said that it was the hon. the Father of the House who was running public finances and the economy and all the rest of it and therefore he was very happy with the fact that it was all in his hands, rather his hands than mine, and all the rest of it. In this motion he wanted to say the opposite. So the fact that he had said one thing and was now going to say the other was of course of absolutely no concern whatsoever. He said, ‘It is all your fault, Chief Minister. You are the one who is creating all this lack of transparency, all this failure to answer questions.’ Having
1895 also said that it is now the Father of the House who answers those questions because I have given him specific ministerial responsibility for the Savings Bank, which is where the money from Credit Finance flows. Then, Mr Speaker, he did one of his... to do a loose translation of a Spanish phrase ‘*hizo una de las suya*’ He said, ‘As I demonstrated in the earlier motion’. My recollection is that he lost the vote on the other motion. That actually the Father of the House got up and demonstrated everything he had said in relation to
1900 public finances and the economy was wrong and the demonstration was of not knowing what he was talking about and not that what he was talking about was correct. So how could it get worse, Mr Speaker? How could it all get worse? Well, it could get worse in one particular way. He did not just admit that what he had said in the context of the magazine he admitted was incorrect, for which I commend him, he then went on to say that in fact everything that is going to be said in the Estimates Book, soon to be published, is going to be a false picture, tarnishing not just me and the Father of the House – both of us, one of us or each of us...
1905 I do not know in what particular mood he may be at the moment – but every civil servant in the Treasury who is involved, and the Financial Secretary, who as we all know is not a civil servant at the moment. Well, Mr Speaker, that is really quite extraordinary. It is quite extraordinary that he has given notice, Mr Speaker, in effect, that he will not believe what he reads in the Estimates Book. Mr Speaker, even if he were not to believe it, he has got the Estimates Book, he has got the balance sheet of Credit Finance, he has got where the investments of the Savings Bank are. Mr Speaker, he has got more information than we ever had. He has probably got more information than most people have, but he has put us on notice that he does not believe the estimates.

1915 Well, Mr Speaker, last year they were saved by the bell, because the hon. the backbencher came in just in time as they were considering either abstaining or not voting in favour of the budget. But in the time that has passed since that debate and will pass before the next debate – you never know there might even be an election between now and then – (*Interjection*) I challenge him (*Laughter*) given that he disagrees with how the money is going to be spent, given that he now says he will not believe the Estimates Book, to vote against the budget. To have the courage of his convictions, which he says he has, and when we debate on
1920 the Appropriation Bill to vote against the Appropriation Bill, but I know he will not do that because the duality will kick in and having the courage of your convictions will mean getting up, saying one thing and voting quite the other way. If it were anybody else it would surprise me, but it is his him.

Mr Speaker, then he said that I had gone around Gibraltar telling people that Gibraltar was bankrupt. Although he was here for the 2011-12 Budget debate on the Appropriation Bill for that year, he obviously
1925 did not hear what I had to say. The hon. the backbencher did and brought a self-serving and aggressive motion to try and deal with the important point I was making to try and obfuscate it a little bit, in terms much more aggressive (*Interjections*) than I am bringing motions, because it was a motion that said not just what the facts of the motion said, but it reached a conclusion that said that I was therefore unfit to govern. I said that this is a kangaroo court. I am being tried by a majority that is going to follow, because in those
1930 days, of course, this lot were whipped and they all had to vote with the head honcho – in this instance they will all vote their consciences, right? (*Interjections*) – and that I was *unfit* to govern.

I said the people of Gibraltar will decide who is fit to govern and, Mr Speaker, they were the judges of whether I was fit to govern or not. They returned a verdict that I was and I do not appreciate that they appear to be too angry with the work that I am doing, but they will have their opportunity to return a new
1935 verdict very shortly – you never know, perhaps even before the Budget – and therefore if I stand here in future it is only because motions brought by the hon. Members last time with the vitriol and what the hon. Gentleman commended to the Hon. Charles Bruzon as the essential element of politics, namely ‘*mala leche*’ are not the way we do things, because actually they really are not as relevant as the hon. Members obviously thought.

1940 But what I said during the course of that budget debate was by the measure applied in 1996 or 1995, which was the last Budget debate, by you, then Chief Minister, let us look at what the debt per capita is

today and how it has grown. If it has grown so much and you were so concerned in 1995, should we not, by applying that measure, be equally concerned? In the same way as in my Budget speeches, some of which I would commend to the hon. Gentleman – in particular those I gave when I was in opposition and had more time to be inspired and to search through for some excellent comparisons – was social insurance, because I used to say to the hon. Gentleman that GSLP raised social insurance when it was in Government and we do not resile from the fact that that was appropriate at the time. You at the time criticised the increases in social insurance, and I hesitate to say ‘you’ – I am using that as shorthand. I believe it might have been Mr Vasquez who was on his front bench in Opposition before then – and you, the GSD in Opposition, used to call social insurance increases ‘taxation by the back door’.

A Member: [*Inaudible*]

Hon. Chief Minister: No, taxation by the back door or some similar description, which was not a tax on jobs. (*Interjections*) Right? Hidden taxation, I think. ‘Hidden taxation’ was the phrase, and I used to say to him that the GSLP used to put up social insurance and there is nothing wrong in doing so, but by your standards you are putting up this hidden taxation by *x* amount, sometimes more than inflation etc. The trick always was – I will just let the hon. Gentleman into it – the trick always was you put it up the year after the election and two years before. You do not put it up the year of the election and the year after the election, you put it up by more than you should have put it up for the two years before, something we have demonstrated we have not done.

But Mr Speaker, putting up social insurance contributions is something that sometimes has to happen, but what I was doing in taking the argument to the hon. Gentleman, as I was doing on debt, was saying by the measure you established. So if he wants to come back to me, and say, ‘Ah, but you said about debt and now you are doing...’, he needs to look at what I actually said about debt and what I said they would do, because another thing I said they would do was that if they were elected they would increase the debt quite considerably. Of course, it caught us all by surprise that the debt had been increased very very considerably and we only found out, having had the Estimates Book in April, estimating that there would be £480 million, I believe. We only found out, and I say ‘we’ because I mean Mr Azopardi, who was the leader of the PDP, myself and the rest of the community, on the night of the Leaders’ debate, when we were finally told by the hon. Gentleman, it had gone up to £520 million. And that is why I used to say, how are they going to fund their manifesto ‘D’ ‘E’ ‘B’ ‘T’ debt?

But, of course, the other argument available, Mr Speaker, is that one of the things the hon. Gentleman constantly says is that we are receiving a lot of money in the context of tobacco sales and that our revenue is up. Mr Speaker, either we are taking more debt or our revenue is up. He has got to try and be consistent in some way in the way that he deals with these things, but he has got to look at what I said before the election.

He says he criticised the PFI when he was the leader of the now defunct Labour Party, the one that merged with the GSD, but accepted the name of the GSD and that only one or two of its members should be in the executive. He said, ‘I do not like debt which is off balance sheets’, and nobody has dealt with that better than I saw the Father of the House deal with it a moment ago, because of course it was not just the PFI deal that related to the Hospital that hon. Members did a balance sheet, there was a lot more done on balance sheet or does he forget the £100 million hole that we found in companies when we were elected? That is in addition to the £520 million of debt that there was. Does he forget, Mr Speaker, or is it that he was, to take his phraseology, ‘blissfully unaware’ of the deals being done by the Government of which he was a member – i.e. between 2007 and 2011 on the Midtown and on the car parks? Mr Speaker, does he not know those things? Was he really a member of the Government or was he perhaps like the others who accompanied the now backbencher in his journey through Government – really no more than a decorative wallflower?

I have pursued the facts. I have reflected that this motion does not call for people to judge the Hon. Member to be fit or unfit for any purpose – that is a matter for the general public – but simply that the House should reflect and condemn the fact that the public have been misled and I will commend him for the fact that indeed he has accepted that some of the things that he has said in this magazine were wrong, although he has then tried to create one of those smokescreens which he is so adept at producing, but so unable to maintain, in trying to avoid the inevitable conclusion that the motion is correct and it should be supported.

Mr Speaker, I therefore commend the motion to the House, seek its support, and as the hon. the backbencher did earlier, seek that each Member be polled individually in respect of the vote.

Mr Speaker: I now put the question in the terms of the motion proposed –

Hon. Chief Minister: Mr Speaker can I, before you do, the word ‘prevent’ should be ‘pervert’ in the motion. I think that is –

2005 **Mr Speaker:** There is a typographical error in the motion. Instead of ‘prevent’ in the last paragraph it should be ‘pervert’.

I now put the question in terms of the motion proposed by the Chief Minister. Division is required.

2010 *A division was called for and voting resulted as follows:*

FOR

The Hon P J Balban
The Hon J J Bossano
The Hon Dr J E Cortes
The Hon N F Costa
The Hon A J Isola
The Hon G H Licudi
The Hon S E Linares
The Hon F R Picardo
The Hon Miss S J Sacramento

AGAINST

The Hon D J Bossino
The Hon Sir P R Caruana KCMG QC
The Hon D A Feetham
The Hon S M Figueras
The Hon J J Netto
The Hon E J Reyes

ABSENT

The Hon Mrs I M Ellul-Hammond
The Hon Dr J J Garcia

Mr Speaker: There are two hon. Members who are absent. With 9 in favour, 6 against, the motion is carried.

We will now have a recess of 20 minutes.

2015

The House recessed at 8.45 p.m. and resumed its sitting at 9.05 p.m.

PRIVATE MEMBER’S MOTION

**Report of the Dr Giraldi Home Inquiry –
To note the findings of the Report –
Motion carried/lost**

Clerk: Private Member’s motion, the Hon. D A Feetham.

Hon. D A Feetham: Yes, Mr Speaker, it is five past nine and somebody has just tweeted that – I thought it was quite amusing – we have gone from “*Aqui no se pesca*” to “*aqui no se cena esta noche*”

2020 Mr Speaker, I have the honour to move the motion standing in my name, which reads as follows:

‘This House:

Notes the findings of the Report of the Dr Giraldi Home Inquiry, produced by the Inquiry Chairman, the Rt. Hon Sir Jonathan Parker. The House particularly notes the following:

- 1. That all the allegations of abuse in the Dr Giraldi Home were properly investigated by the Social Services Agency as and when the allegations were made;*
- 2. That those allegations of a criminal nature were referred to and investigated, as appropriate, by the Royal Gibraltar Police;*
- 3. That there was no conspiracy by any Government Minister, or indeed anyone else, to prevent the allegations in the witness statements filed on behalf of Joanna Hernandez from being put into the public domain and/or becoming the subject of judicial investigation, whether by delaying or obstructing the hearing of the claim, or by stifling the claim by prolonging the proceedings unnecessarily, or by any other means;*
- 4. That the serious claims were untrue, grossly exaggerated or unsubstantiated by credible evidence;*
- 5. That staff at the Dr Giraldi Home were subjected to unfounded, offensive and regrettable criticism;*
- 6. This House is grateful to the Care Staff at the Dr Giraldi Home, who despite having been the victims of the most spurious allegations, stood steadfast in their resolve to provide the best possible care to residents and service users in very difficult circumstances.*

This House thanks and re-affirms its trust in the Royal Gibraltar Police, outgoing Attorney General Ricky Rhoda QC and the Social Services Agency.

This House resolves to repair the damage caused to the reputation and good standing of the Dr Giraldi Home, its staff, the Royal Gibraltar Police, the Social Services Agency and the Attorney General by informing, through a letter from the Leader of the House, the Spanish TV Channel Antena 3 and the producers of the Espejo Publico Programme, of the outcome of the Inquiry.'

Mr Speaker, this motion concerns one of the most disgraceful and sad episodes in Gibraltar politics. An episode that involved the systematic and merciless exploitation of allegations by Members opposite, which they were told on numerous occasions, Mr Speaker, both in this House and outside it, had been investigated by the Social Services Agency and the RGP and had been found to be without foundation.

2025 Some of the most serious allegations, which as they well knew had also been considered by her Majesty's Attorney General at the time, and again found to be unsupported by credible evidence. I know, Mr Speaker, that the Hon. Members opposite will say that at least they conducted a public inquiry, but the point is that the inquiry would not have been necessary had they chosen to accept the assurances of the Royal Gibraltar Police, the Social Services Agency, Her Majesty's Attorney General and the Chief Minister
2030 of the day that the allegations had been investigated and found to be without foundation.

The stark reality is that the Inquiry has been a cure for an illness that they themselves invented, Mr Speaker, because if it had not been for the manner in which they turned Mrs Joanna Hernandez into a cause célèbre, it would not have been necessary to spend over £3 million of taxpayers' money on it. The reason why the parties refused to accept the assurances of all those public authorities was because they
2035 wanted to exploit the allegations for their own narrow political ends with the intention of causing *maximum* damage to the Government of the day, without care or thought, Mr Speaker, about the collateral damage that it would and indeed did cause those institutions of state, such as the RGP, the office of Her Majesty's Attorney General and above all the real victims in this sad episode, the staff at the Dr Giraldi Home.

Mr Speaker, Members of staff that have stood steadfast and with great dignity in their resolve to provide the best possible care to residents and service users, whilst the Parties opposite continued with their systematic and calculated political campaign, both in Gibraltar and abroad against the Dr Giraldi Home. A word-of-mouth campaign. A campaign on social media in the press and on television, both here and in Spain, Mr Speaker. I do not understand for the life of me how the Chief Minister can in the future stand up
2040 in this House; indeed, I do not understand how he stood up in this House today in the context of the last motion that we have debated and with a straight face accuse anyone in the Opposition of doing Gibraltar down with our legitimate criticisms of the public debt or their handling of the fishing dispute, when they were responsible for turning Mrs Joanna Hernandez, one of their political activists, and her unfounded allegations into a *cause célèbre* both here and in Spain. Mr Speaker, I am going to demonstrate today just how orchestrated that campaign was.

On 26th April 2006, the Industrial Tribunal gave directions, Mr Speaker, for steps that needed to be taken in Mrs Hernandez's claim against the Social Services Agency. One of those directions was that witness statements be exchanged by 16th June 2006. At that Directions Hearing, Mrs Hernandez was represented by the hon. Gentleman opposite the Chief Minister, Mr Picardo, who continued to act for
2050 Mrs Hernandez at the time that witness statements, which formed the basis of the allegations, were being obtained, witness statements that were prepared, of all places, at GSLP headquarters. Not at Hassans, but at GSLP headquarters. I am not inventing that, Mr Speaker. It is admitted in a press release issued by the GSLP on 26th November 2009. It is in their press release. Those witness statements were then systematically leaked by someone – I do not know who and of course it must be a limited number of people, but it was leaked by someone – to the *VOX* newspaper and printed verbatim by that newspaper on a
2060 weekly basis, a newspaper openly supportive of the Parties opposite.

Mr Speaker, I have never come across, in my 22 years of being a lawyer and in the 15 years that I have been involved in politics, with a situation where all the witness statements produced in a particular case were leaked and printed systematically by a newspaper as part of an intensely orchestrated political campaign.

Mr Speaker, it gives me no pleasure to read some of the headlines and parts of the articles printed by *VOX*, but I think it is important, Mr Speaker, that those listening to this debate appreciate the intensity of the campaign and the vileness of the allegations made against the carers of the Dr Giraldi Home to then appreciate the huge entirely manufactured cloud that these poor carers had to endure and the extent to which they were exonerated by the Report from the Rt. Hon. Sir Jonathan Parker.

2070 The first salvo came on 16th May 2008, issue 2775 of the *VOX*, under the front page headline, and I quote:

'Crime is crime whatever Rhoda may say'

2075 The *VOX* then carried a story saying that, and I quote:

2080 'Written allegations by Agency staff, which were handed to Mrs Joanna Hernandez soon after she took up her post in the Dr Giraldi Home along with other allegations, which would have formed part of the Industrial Tribunal evidence which the Government attempted to suppress, paint a damaging picture of abuses in the Agency. Crime, however serious or trivial it may be, should not be merely brushed under the carpet because it would be politically embarrassing for action to be taken.'

2085 The article, Mr Speaker, was clearly intended to convey the imputation of criminal conduct in the allegations made against the carers at the Dr Giraldi Home, which were not, according to Ms Hernandez and indeed an Opposition press release contemporaneously issued at the same time, were not being investigated by the Police or Her Majesty's Attorney General because they were being suppressed by the Government of the day. Indeed, in that article, Mr Speaker, the evidence in support came from those leaked witness statements in the Joanna Hernandez tribunal case.

2090 On 21st August 2008, issue 2787, under the front page headline 'Agency covered up evidence of cruelty to child in care', the *VOX* carried an article, again from one of the witness statements, and stated:

'Protracted abuse of a child in care of the Social Services Agency over a five-year period was never investigated by the Agency, though a doctor found bite marks on his arms. He had suffered unexplained fractured leg and then been punished by having his head held inside a refrigerator.'

2095 I will come back to the allegation when we look at the conclusions of the report.

At page 12, under the headline 'Significant abuse allegations were ignored', the article then sets out the statement by the *GSLP* Liberal Opposition at the time, which referred to various allegations of abuse as:

2100 '... having his head pushed into a fridge, given cold showers whilst the child was screaming as a result of his condition. This is not in fact an isolated incident, but a reflection of the culture that persisted in the way the Agency has handled its responsibilities of those it is supposed to be protecting and caring for.'

2105 Not an allegation by Joanna Hernandez, an allegation by the hon. Members opposite when they were in Opposition.

On 4th September 2008 the *VOX* carried the front-page headline in capitals:

'DR GIRALDI HOME SEX ROMPS EXPOSED. CARERS URGED MOCK SEX ACTS FOR THEIR OWN AMUSEMENT AFFIDAVIT ALLEGES.'

2110 The article then goes on to say that:

'Workers at the Dr Giraldi Home encouraged those in their care to indulge in mock sexual activities for their own amusement.'

– again, Mr Speaker quoting from witness statements that had been leaked to that newspaper from the Joanna Hernandez case.

On 5th January 2009, the *VOX* carried the front page headline:

2115 'Locked in the Dr Giraldi Home. Boy forced'

– and I am using a more polite term for the word used by the *VOX* –

2120 'to [defecate] on floor. See page 20.'

At page 20, under the headline in capitals:

'GIRALDI HOME BOY WAS BULLIED BY SADISTIC CARERS BUT NO ACTION WAS TAKEN BY FELLOW CARERS'

2125 The article then says:

2130 'Details of an alleged regime of sadistic bullying of a young boy by two of the carers at the Dr Giraldi Home more than a decade ago are contained in documents which the Caruana Government has attempted to keep secret, which the Social Services Agency has declined to investigate and which the Attorney General has refused to act on.'

Again, Mr Speaker, the article preys in aid of witness statements that it said had been filed in the Joanna Hernandez case.

On 11th February 2009 the front page of the *VOX* carried in capitals the headline:

2135 'THE GIRL WITH BURNT BUTTOCKS. See page 3.'

Then under page 3 it says, the headline:

2140 ‘The girl with the blistered buttocks. Giraldi Home carers sadistic and sexual pastimes disclosed in a dossier of shame.’

Then it says... an article referred to claims in respect of:

2145 ‘A young girl who was in the care of Social Services Agency was brutally abused by the staff at the Dr Giraldi Home are contained in a dossier prepared by whistle-blower Joanna Hernandez, which she intends to release to the media in Britain and Spain.’

The article then describes how a girl was tortured, according to them, by making her sit on a bidet with very hot water until she sustained severe burns on her buttocks.

And then it continues:

2150 ‘The dossier also contains a string of allegations of drug misuse, of overdoses being given and of drugs going missing.’

2155 Yet another headline, Mr Speaker, in the *VOX* newspaper, again from witness statements filed in the Joanna Hernandez tribunal case referred to allegations of sexual misconduct on a trip to Lourdes. The picture, Mr Speaker, was of systematic abuse of the worst possible kind, coupled with a cover-up by the then Gibraltar Government, the RGP and the Attorney General. It is a picture that they gave then too when they were in Opposition, Mr Speaker, and indeed, used it to their own political benefit unashamedly so for many years at that time.

2160 For example, Mr Speaker, on 29th October 2008, GSLP press statement 124/2008, the parties opposite said:

‘The reason why the Opposition continues to make public the shortcomings at the Dr Giraldi Home is because both the Social Services Agency and the Government have been involved in a cover-up exercise since the allegations came to light.’

2165 And accepting the veracity – it is not a question of the Joanna Hernandez making these allegations and the Opposition being at arm’s length from Joanna Hernandez, no, Mr Speaker – and accepting the veracity of the allegations made by Mrs Joanna Hernandez, it appears without question they then said:

2170 ‘Gibraltar owes a great debt of gratitude to the former manager of the home, Joanna Hernandez, for having had the courage to come forward and make public what was happening at the home behind closed doors.’

Unequivocal, unconditional – a statement, Mr Speaker.

And then to conclude the press statement also said this:

2175 ‘Nobody has yet taken political responsibility for what happened in the past when in other countries heads would have rolled for far less.’

2180 Well, Mr Speaker, what heads are going to roll now that we find that there was no basis for the allegations of either serious abuse or of any conspiracy or cover-up by the Authorities of the then GSD Government, Mr Speaker? In any other jurisdictions heads would have certainly rolled for far less.

2185 Talking about rolling of heads, what heads are going to roll, Mr Speaker, now that Members of the benches opposite have been found, Mr Speaker, to have spread unfounded allegations in the Spanish TV channel Antena 3, where as a consequence of those unfounded allegations the Dr Giraldi Home was described as the ‘house of horrors’. What heads are going to roll for the participation of Members of the benches opposite in that programme?

2190 Mr Speaker, Gibraltarian politicians participating in a programme in Spain denigrating our institutions – it cannot be described as anything else, Mr Speaker. It is simply not credible to suggest that they did not know that the Spanish TV channel would not be casting the worst possible light on Gibraltar and its institutions. If anyone on this side of the House, Mr Speaker, had done anything remotely resembling that, our reputations would have been burnt to an absolute cinder by the GSLP machinery – that is the reality.

2195 I hope – but I will not hold my breath having heard what he said earlier in reply to what I said on his motion – that never again do Members opposite preach about doing Gibraltar down with our own legitimate, internal criticism, because it is not criticism of Spain, they are here in Gibraltar, about the public debt and about anything else which are important issues of the day for this community. If we make the criticism, Mr Speaker, we make them here in Gibraltar. We do not go to Spanish TV channels doing our institutions down and doing our community down. That is something that they, to their eternal shame, did in relation to the Dr Giraldi Home. Not only, Mr Speaker, have heads not rolled, but we have not even had an apology from Members opposite for that shameful intervention in that programme, not even an apology, Mr Speaker, a sorry, an admission that they were wrong in doing so.

2200 Look, Mr Speaker, when the hon. Gentleman rightly said he had not made the North Korea comparison in the United Nations, I said, yes, I accept I made a mistake. He made it in the BBC programme and in Sky

News. Mr Speaker, it pales into insignificance if we are going to talk about comments doing Gibraltar down or comments misleading anybody, it pales into insignificance with the participation of Members of this House on a Spanish TV programme doing the institutions of this community, doing the carers of this community down, Mr Speaker, because that is what *they* did, and not a squeak of an apology, Mr Speaker, to this House for their participation in that programme.

Indeed, Mr Speaker, at a time when the Government is taking legal action against the *ABC* newspaper – rightly we have said – for the defamation of Gibraltar, it is incumbent on the Hon. the Chief Minister, the leader of this House to correct one of the biggest defamations ever to have been perpetrated against Gibraltar, its workers and its institutions, which was a defamation that was aided and abetted by the hon. Gentlemen opposite, Mr Speaker. At the very least he ought to do what I suggest in my motion, which is to write to the producers of the programme and inform them about the results of the investigation, correcting the record that they so cynically and incorrectly created in that programme those years ago.

Mr Speaker, I have set out how the allegations contained in the witness statements were leaked to, and published by, the *VOX* newspaper. This is what Sir Jonathan Parker had to say about those allegations, and I quote directly from the Report, Mr Speaker. I think it is important that this House has the recitation of exactly what Sir Jonathan Parker has found in his conclusions in the Report. A quote regarding the allegation, the alleged incident of sexual misconduct on the trip to Lourdes, and you may recall the headline in the *VOX*:

‘I am more than satisfied that no such incident in fact took place. As to the allegation that X and another carer “put Z’s head in a freezer and he shouted like an animal”, I find that no such incident occurred.’

As with the alleged “head in the freezer” incident, the evidence of X and Y in relation to resident Z being given cold showers insofar as it suggests that this was a form of punishment meted out to resident Z, is also based on an unfounded rumour.

As to Mrs Joanna Hernandez’ allegation that staff at the Home did not give priority to caring for residents, and the associated implication that service users were treated as “silly little children or adult imbeciles”, is a travesty of the truth and an insult to the efforts of dedicated members of staff.’

– an insult to the efforts of dedicated members of staff –

‘Her allegation that the Home was in “virtual chaos”, and that the entire culture at the Home was one of “institutionalised, historic malpractice”, are also rejected. Experienced carers, such as Sharon Berini and Sean Matto would not have allowed themselves to be associated with such a situation. Nor would they have allowed any sexual, physical, verbal or emotional abuse of service users to take place in the Home.

As to Joanna Hernandez’ allegation that Yvette del Agua pressurised Isabella Tosso and/or Marie Gomez into threatening her with losing her job and career, in oral evidence Yvette Del Agua described that allegation as “an outright lie”.

I accept Yvette Del Agua’s evidence and find the allegation to be wholly without foundation.

I accept Yvette Del Agua’s evidence that she took her ministerial responsibilities in relation to the Home extremely seriously and did all she could to discharge those responsibilities promptly and effectively.

I accept, without qualification, the evidence of Yvette del Agua, Jaime Netto and Sir Peter.

I find that there was no conspiracy by anyone in Government, or indeed anyone else, to prevent the allegations in the witness statements filed on behalf of Joanna Hernandez from being put into the public domain and/or becoming the subject of judicial investigation, whether by delaying or obstructing the hearing of the claim, or by stifling the claim by prolonging the proceedings unnecessarily, or by any other means.’

– and, Mr Speaker, I am still quoting from the conclusions.

Quote again:

‘Many of the allegations in the witness statements filed on behalf of Joanna Hernandez in the Industrial Tribunal in 2006 were untrue, grossly exaggerated or unsubstantiated by credible evidence.

In any event, allegations of serious misconduct or abuse were investigated by the management, the Social Services Agency and the relevant authorities (including the Royal Gibraltar Police) as the case may be. There was no conspiracy to prevent such allegations being investigated or being put into the public domain. The decisions taken by the relevant authorities (including the Royal Gibraltar Police) in relation to such allegations were justified.

To the extent that such allegations were established on the evidence, the incidents in question were largely historic and infrequent, and had been dealt with at the time by management at the Home, and the SSA.

I find that there is no factual basis for Joe Bossano’s suspicion that the Government’s motive in taking and pursuing the preliminary point was to prevent the allegations contained in the witness statements filed by Joanna Hernandez coming into the public domain...’

– Mr Speaker –

2270 'As to whether improper pressure was applied to the Transport and General Workers' Union in reaching its decision not to fund Joanna Hernandez' claim, no evidence has been presented to the Inquiry to support Joe Bossano's suspicion. I accordingly reject the suggestion that improper pressure was exerted on the TGWU in connection with its decision not to fund the Joanna Hernandez' claim in the Industrial Tribunal.

Accordingly, I find Joe Bossano's suspicion in relation to the conduct of the Industrial Tribunal proceedings /by the Government, Social Services Agency/ to be unfounded in every respect.'

2275 Pausing there, Mr Speaker, how on earth do the hon. Gentlemen opposite justify the call for heads to roll because of allegations made by Joanna Hernandez in 2009, and for no heads to roll now that everything that the hon. the Father of the House said was absolutely proved to be false to be wrong... to be false?

2280 Really, there is not a western democratic country in the world where something like this would have happened, where there would have been participation in a foreign TV programme, where there would have been a campaign of the intensity of this campaign. For those people to get it so badly wrong, to go to a Tribunal of Inquiry, to say there was a huge cover-up, and then for that Tribunal of Inquiry to find that there was no cover-up at all and that his evidence was not accepted in any respect, and still he remains a Government Minister, Mr Speaker, because this is the time for heads to roll – not in 2009, but now, Mr Speaker.

2285 'Accordingly I find Joe Bossano's'

– again I quote –

2290 'suspicions in relation to the conduct of Industrial Tribunal proceedings and the Government Social Services Agency to be unfounded in every respect.

2295 I also accept the evidence of Superintendent Acris that the RGP was never instructed by anyone not to investigate cases of abuse, or indeed any other type of case.

Lastly, I consider the decision of the Attorney General not to institute criminal proceedings against the three carers to have been fully justified – if not inevitable, given the quality of the available evidence.'

2300 There can be absolutely no doubt at all, Mr Speaker, that Sir Jonathan's findings are a complete vindication of the staff of the Dr Giraldi Home, which were vilified in those years of intense political campaign aided and abetted, Mr Speaker, both here in Gibraltar and in Spain by Members opposite; and indeed, I have to say, proudly, Mr Speaker, of my Government, the GSD Government at the time. (*Banging on desks*)

2305 Mr Speaker, I want to place on record my admiration for the dignified way in which my colleagues at the time, Yvette Del Agua in particular, but also including Jaime Netto, acted in the face of dreadful allegations of cover-ups of abuse, aided again and abetted by Members opposite.

2310 As parents of children, Mr Speaker, if nothing else – and indeed people who take their jobs very seriously as I know that my friend, Mr Netto and Yvette del Agua have always done – it could not have been easy for them to have served in a Government with that type of intense political campaign week in, week out, by the *VOX* newspaper by one of their activists, Mrs Joanna Hernandez, and by the parties opposite.

2315 There is nothing, Mr Speaker, in this motion that is untrue or unsupported by the conclusions of Sir Jonathan Parker and Mr Speaker, for all those reasons, I commend the motion to the House. (*Banging on desks*)

Mr Speaker: I now propose the question in the terms of the motion moved by the Hon. D A Feetham. The Hon. Mr Bossano.

2320 **Minister for Economic Development, Telecommunications & the GSB (Hon. J J Bossano):** For the avoidance of doubt I am not about to either apologise or resign (*Laughter*) for the benefit of the Leader of the Opposition.

2325 Mr Speaker, what is taking place today here is indeed what the hon. Member is accusing us of having done. The Report, let me point out, states that no recommendations are required as to what should happen next from the Inquiry and that it is for the Government to take any action that it deems appropriate. In effect, there are two options open: one is to consider the issue of the allegations dealt with and leave matters there; or what the motion before the House in effect is asking, which is that that should not be so.

2330 What it is trying to do is to say that the Inquiry has concluded, that everything was almost perfect, that no-one did anything ever that should not have been done and that the previous GSD Government acted correctly at the time and were always right. And if the motion was not intended to do that, the speech in support of the motion has. I, for one, reject outright that this is the truth, but I agree with the view that

perhaps things should not be left as they stand because I do not accept that following the evidence that has been uncovered in Government documents, on discovery of those documents by the Inquiry, such evidence inevitably gives rise to only one possible interpretation, namely the self-serving interpretation of the text brought to the House by the Member opposite. (A Member: Hear, hear)

2335 To use their terminology, the Opposition is now trying to milk this issue to gain political benefit from it. This has nothing to do with the carers, and even less does it have anything to do with the victims of the alleged abuse. The papers that have been produced for the Inquiry reveal that contrary to the public statements from the Government of how well everything was in the Home, when asked in parliament privately the reality was very different.

2340 If we start, Mr Speaker, by looking at what the hon. Member is so concerned about with *Espejo Publico*. He has today repeated what he has said before when I have told him it is not true. Nobody went to any programme in Spain. A Spanish journalist came to my office and asked me what did I think of the allegations that had been made, and this is what I answered – three lines – and this is what came out in the programme, “*Yo le pregunto en parlamento, ‘Bueno, si todo es un montaje,’ as he claims, ‘Y todo es mentira, entonces por que no se permitio que se escuchara el caso el primer dia en el 2006? No lo han hecho y no lo aclaran.*” And that is still the accusation against the hon. Members. If it was all false, if they had no problem with the witness statements, then why did they go to all the lengths that they did to prevent the hearing from taking place? Whatever the Chairman of the Inquiry may think or not think, that situation was created by them by not doing the correct thing, were not just us, but many other people were saying

2345 have an independent, open investigation and clear the issues. They refused to do it – (Interjection)

2350 And if he is worried about. *Espejo Publico* let me tell him that one of the carers – I do not know who it was – calling himself Mikey, wrote extensively on the area of that programme on the internet and called everybody else everything under the sun. Presumably he is exempt from any question of putting things in the Spanish media, although I am no longer permitted by the criteria of the Opposition to give an interview to a visiting Spanish journalist and tell him, not that there are allegations, not that there is evidence, but I keep on asking, ‘If you say that it is not true and if you say it is all a made-up job then why don’t you put your money where your mouth is and allow an open-ended Inquiry without having to wait for the tribunal to take place?’ Indeed, everything that they did was in the opposite direction.

2355 The Social Services Act requires the immediate investigation of allegations without delay. There is no evidence that the Board of the Social Services has ever had a report, a record of anything having been investigated ever. There was nothing there when we got in. The ministerial response to the issues that I have brought in the House in the past have been for the Member opposite, so highly praised by the Leader of the Opposition, to tell me that he had never heard of the issues that I was raising. Indeed, I remind the hon. Member of Question 857/2008. It was not about the Giraldi Home, but it is relevant to show the degree of involvement and knowledge of Ministers.

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2365 When I pointed out to the hon. Member that there was an 11-year old child in the KGV, the reaction of the hon. Member was... it was after lunch, and I said to him, ‘So is it then that the concern that had been expressed while the child was in KGV to approaches being made to him by people who were really mentally ill’, which the child was not, ‘when he was having his eleventh birthday? Is that something that he does not know anything about?’ And what did the hon. Member say – this very concerned Minister who is on the top of the job? ‘I do not know what on earth the Leader of the Opposition is talking about, but look, it is not for me as Minister for Social Services to go every single day to see how the management of the KGV deal with it. I think it is absurd what the Leader of the Opposition has said.’

2370 Yvette del Agua then stepped in and said, ‘Can I just add something to that?’ I think she was asking my permission and so I said yes. ‘What the hon. Member is insinuating,’ she says, ‘is to my mind quite serious. He is only insinuating it, but it could lead to whoever is listening to believe that terrible things have happened to this child on his eleventh birthday while he was in the care of KGV. I suggest that the person who passed the information onto him write to the Chief Executive.’ And I told her, ‘Well, look, it is not my job to go telling people to write, and in any case when they do you bin the stuff that they send you’, which

2375 she said was not correct.

2380 I pointed out that every time somebody made an allegation, a complaint or an accusation, the result was that they were a disgruntled employee, a disaffected person, somebody that had lost their jobs or somebody that had a grudge. Everybody was wrong. But there was never anything that was going wrong in the wonderful service that put a 10-year-old child in a mental home with adults when there was written advice that the place was not suitable. When I said that, the hon. Member opposite, who is so caring – I am not sure whether he was already a philosopher by then, he might not have been... (Laughter) – he said, ‘I do not know what on earth the Leader of the Opposition must have had at lunchtime, but he seems to have gone absolutely bonkers in terms of the allegation’. Bonkers.

2385 All I will say is what on earth has happened to the Leader of the Opposition when he went for lunch today? Well, Mr Speaker, I told him that he could call me bonkers as many times as he wanted. He said that I was making all sorts of wild allegations, totally groundless, baseless, and he did not know for what

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particular reason. This is the kind of language we have heard from the Leader of the Opposition today. It did not require Parker to spark it, it was already there in 2008.

2395 I told him that he knew or should know what was going on, which he denied. Well, Mr Speaker, let me just refer to the exchanges that went on between Chris Wilson and McCutcheon about the child in the KG5, exchanges which Chris Wilson was saying he was briefing –

2400 **Mr Speaker:** May I ask the Hon. Minister to link up somehow the question of the KGV with the Dr Giraldi Home. I am sure he must be (*Interjection*) developing an argument... I hope he is developing an argument which will indicate the relevance of that to the Dr Giraldi Home.

Hon. J J Bossano: The report in the Spanish media to which the hon. Member refers in the motion talks about this particular case.

2405 Mr Speaker, the exchanges that took place, which were copied to the Minister, Yvette del Agua, and which were also brought to the attention of the Member opposite when he was telling me I was bonkers, told him exactly what I was making him aware of, that this child should not have been there, that this child had been put in a situation where he was at risk, that this child had been molested – and this was not allegations made by disgruntled employees. These were allegations made by the professionals in their employment. And when I brought it to the Member's attention, what did he do about it? Instead of saying, 2410 'Well, look if that is the information that you have got', which he had as well but seems to have forgotten about, 'then I will look into it'. No, what he did was... you know, if you do not like what you hear, you shoot the messenger; but, of course, what I had then and what I have now before me is what he knows is the truth.

August 2007:

2415 'There needs to be an immediate Government response to the situation. I appreciate your commitment to this matter with your Minister, but I fear a protracted period before appropriate decisions are taken.'

2420 I told him that the professionals in the Health Service had a problem that this child was sectioned when he was not mentally ill, that the assessment that had been made with him was one that he had a conduct disorder, which the psychologist said in lay member's terms meant that the child was naughty, and because he was naughty they stuck him in KGV for a month and the Agency was resisting him being released. The child was sending people messages saying, 'Help! Get me out of here!' and that, which was happening then, was the fault of the Agency, or the fault of the Hospital, or the fault of somebody, but nobody was prepared to take and assume political responsibility. 'Anywhere else in the world', the hon. Member says 2425 about people having to resign. Anywhere else in the world if you put an 11-year-old child and they find him naked with a mentally ill patient in the shower they are asked to resign.

In the United Kingdom, Mr Speaker, they are going back 40 years and 50 years and re-opening cases; but here, no. If you complain about something, if you say, 'I believe that this should be investigated', which is what happened, what happened was that some people were making allegations and other people were saying that the allegations should be investigated and be seen to be investigated and it should be open, transparent and independent. The issues that were there were allowed to grow and fester because the position of the Government was a position which can only be described as the Ministers responsible portraying the proverbial wisdom of the three apes that see no evil, hear no evil and speak no evil. But there 2430 was no wisdom in their case.

2435 And that is not the only issue on which we see reflected the reality being one thing and what has been portrayed here today and throughout this period of time by the Government of saying, 'Sweep it under the carpet. There is nothing wrong. You are just making this for political advantage'. What political advantage can there be in wanting to get to the truth? What political advantage is there if instead of accusing you, 2440 Mr Speaker, I ask that the accusation should be investigated and demonstrated to be true or not? And it would have been possible to do it very simply, very cheaply and immediately had the tribunal been allowed to proceed, because then the persons making statements would have been in the tribunal subject to cross-examination and the truth, or otherwise, would have been cleared up.

2445 The people denying the allegations would have been subjected to cross-examination and then we would have known what was true, but that opportunity did not happen. It did not happen because the Government did not want it to happen and therefore the reality of it is that we have today a situation where the Members opposite feel that they can cry 'Victory!' because (a) of the time that has passed when nothing was investigated; and (b) because at the end of the day what we have is a Report that does not say what the hon. Member claims it says. The hon. Member has chosen to selectively present that Report in the way that suits 2450 his own political ends.

In dealing with the issues the tribunal has looked at a number of cases and when we look at those cases, the Inquiry may feel that the evidence that is available to them is not sufficient to persuade the Chairman

2455 who decides whose evidence he believes and who he does not believe. But what we have is a situation where this was not Joanna Hernandez being on a campaign and making allegations left, right and centre on her own. Or is it that the hon. Member opposite has forgotten that there was a letter before the period, which stated:

‘I was the former team leader in the Dr Giraldi Home until I resigned from the post in 2004.’

2460 This letter – I suppose it must be a disgruntled employee, because that is the definition of everybody that claims there is something wrong – was by Duncan Jones, BA Hons, MSC, Diploma in Law and Certificate in Management. This is not somebody who does not know what he is talking about. He was there in the Home and he says:

2465 ‘The Government is lying when they say that things were being investigated, because I left in disgust because I did not enter a care profession to set aside the rights and wellbeing of service users and others working in the care sector. My position was untenable and I resigned because full and proper investigation of serious allegations were prevented, thus placing both the staff and the service user at potential risk, that were being disregarded.’

2470 Was this drafted in the GSLP headquarters in 2004? There was no issue in 2004. This was the position that was inherited when there was a change that took place; and when that change took place, is it not the case that there was a letter from the Minister to the Chief Minister saying that after the resignation of some people the management in the Home was completely out of control and she was having to micro-manage all the time and run it in 2004 and 2005? And after Douglas Rodriguez, and she was saying, ‘We need to put somebody here’ and it was following that in 2005 there was an appointment of Joanna Hernandez that applied from within the Civil Service where she was working in the Education Department.

2475 So the position in 2004, according to the manager that was in 2004, was not what is being claimed today in this House, and the position by Yvette Del Agua in 2005 was that the position she had there was one that was out of control and she had to micro-manage, and the letter to do that is in the evidence before the tribunal. That is how we found out, because we do not have access to the letters that were going on before. So the tribunal evidence is not just producing things that suit them, it is also producing things that we would never have known *but* for the Inquiry. And now that we know them, we have to take stock of them, given that we have decided that this is not going to be something that is going to end with a tribunal because that is not what the hon. Members opposite are seeking. They are not asking us to say, ‘Well, look, let’s put this matter to bed.’ So they do not want to put it to bed. Well, look, I am game to carry on with this one – (Interjection). yes – and we will see where it ends.

2480 And of course the hon. Member knows that that was not the only individual working in the Home that expressed concerns because there was a Mr Harris who produced a witness statement for the tribunal – a witness statement which of course was not fabricated by anybody because it is in his own handwriting – and the witness statements of the other people willing to say things under oath. Because what the hon. Member is saying is that a number of people for no apparent reason wanted to go into a tribunal and commit perjury – that is what they wanted. Here we have got a situation where all these people, for no gain and no benefit, express concerns when there is nothing in it for them. Well, I do not know how you judge the credibility of one person or another, but I would say that the balance of probability would be a good yardstick. I would say that if someone has nothing to gain by saying that something is black and somebody has got a lot to lose, then you would expect the guy that has got a lot to lose to say that it is not black, that it is white.

2490 The people who put the statements put the statements in good faith. The concept of protecting people who whistleblow... in case the hon. Member is not familiar with the legislation that has been there in the UK since 1998 – is that whistleblowers are entitled to be protected even if they are mistaken, as long as they are doing it because they believe it to be true and it is reasonable to see from the circumstances that that belief is tenable. You do not punish a whistleblower because it happens to be the case that he thought there was something going wrong and asked for it to be investigated and then it turns out that it was not going wrong. That he was mistaken in a genuine belief. What a whistleblower has got no protection for is when it can be demonstrated that it is a deliberate misrepresentation because the person doing the whistleblowing has something to gain.

2500 The people who made the witness statements – all of which the hon. Member is saying are fabrications – were people who stood to gain *nothing* at all. Of course, the Harris letter actually makes an allegation, which refers to one of the cases before the tribunal and mentions that that person he witnessed – he does not say this is not third party. This is not hearsay. This man is saying, ‘I witnessed this particular child being treated in a way which was completely unacceptable.’ This is before the Agency. This is in the time of Milbury. This was in 1997 and so why should somebody come out and say this years after he has left if he was not telling the truth? What was in it for him? Why should he want to do this?

2515 Well, of course, the hon. Member is familiar with this case because that is the case which helped him and his brother close down the *VOX*, which they must have been wanting to do for a very long time given everything that he has read about the *VOX*. They must have been gunning for it and this gave them an opportunity. Of course, the *VOX* has supported every political party in Gibraltar, let us be clear. It has supported the Gibraltar Labour Party. He used to write anonymous articles in it when he was in my Executive – (*Interjection*) Well, let us put it this way, the circumstantial evidence is (*Interjections*) that
2520 there were articles that reflected debates in the Executive that appeared in the *VOX* under an anonymous name. They appeared when *he* joined the Executive and stopped appearing when he left. Now, I am not saying he was the one who did it. (*Laughter*) All I am saying is that the two periods coincided – just in case I get accused of making false accusations. (*Interjections*)

2525 So at that time the *VOX* was not such a bad vehicle and of course for very many years – and I am sure the backbencher must remember that before he fell out with the late Mr Campello – I was the target of *VOX*'s campaign for many, many years. (**Chief Minister:** Yes. Shame!) That is when they were getting adverts (*Interjections*) The reason, of course, why the hon. Member took action against the *VOX* was because of what Harris claimed and the *VOX* apparently published.

2530 **Hon. D A Feetham:** I did not take any action.

Hon. J J Bossano: No? Well, you were the Minister for Justice. (*Interjections*) Yes, of course, you were the Minister for Justice and I think there might have been a possibility that the hon. Member's brother, who dealt with the case, talked about it with his brother but not with the Minister for Justice. Okay. (*Interjection*)
2535 The statement says:

‘I told MF that he should not treat Reuben like that...’

Because the *VOX* said MF is related to a Minister in the Government, the position was taken that it could only have been one person and that is what eventually the hon. Member opposite got, took...or rather the person that was named as MF, who might as well also have been Mikey in the ‘*Espejo*’ possibly – took
2540 action on the basis of this and Mr Harris was nearly polished off as a consequence of the papers that were served on him and he finished up in hospital. The *VOX* collapsed and the legal action that they threatened to take was sufficient to put them out of action and one of our institutions, which has been on many occasions in its long history either friend or foe of almost everybody that has been in this Parliament, ceased to exist. That is also part of the history of what has been going on. So you see that the animosity towards the *VOX* is not driven by being on this pillar of height of purity and altruism, there are other factors involved. There are
2545 other interests and other connections.

There is another case which happened, Mr Speaker, in 2005 where the families of one inmate of the Home, a resident of the Home complained, but not to Joanna Hernandez because she was not there yet. They complained to another one of the people there who put the complaint in writing and this complaint was the case of this child being made to stand up, holding books in his hands and being forced to have cold
2550 showers, and that complaint was not a fabricated complaint in the GSLP for the papers – no, none of that. This complaint was put to the management of the Agency. It is on record and we have only found that out because there has been discovery in the Inquiry. So now we have got the papers that show that contrary to the picture that has been painted today there were things going on *before* anybody arrived there, and when the person who was recruited arrived there, the first case that came up was a case in December 2004 which
2555 is the case that the Police said they investigated in January 2005.

And when, in the course of the Inquiry when Commissioner Wink is asked about the investigation on one of the occasions he accepts that when he said publicly that the allegations had been fully investigated in 2005, what he was referring to was the allegation investigated in January 2005 of what had happened in 2004. But this was before the position arose in June 2005 when there were a number of allegations given to
2560 the manager, and what the manager did, which was so wrong, was that the Manager took it to the CEO and said, ‘Look, I have got these allegations and my advice to you is that you should suspend the people and have it investigated.’ That was not accusing anybody of being guilty of anything.

The Inquiry has been told, falsely, that she asked for them to be resigned. There is no evidence that she asked for anybody to be sacked. The Inquiry was told something that was not true – that she said they
2565 should be sacked, which was not true – and the evidence is in writing that that is not what was asked for. What was asked for, and the position taken by Isabella Tosso on receiving that, was that the procedure that had been followed to obtain those statements was one that was incorrect and not in accordance with the rules of the Agency and that therefore she was not prepared to investigate it. She says in the letter that she sent that for this reason she was addressing the process and not the content.

2570 Well, maybe that is how they did things in the Agency, I do not know. I would have thought if somebody says, ‘There is an allegation by a carer that another carer has treated a person in our Home

badly’, and the manager says, ‘Ah yes, but I am not prepared to investigate this because the statement that you have brought me was not brought according to the procedure laid down and the person that you are complaining of was not told that there was going to be a complaint being made’.

2575 I do not know whether these procedures are the best way to go about it, but I would have thought that if somebody were to bring *me* a statement in which somebody is putting their name down and saying that somebody has done something at work that they should not be doing – in effect, whistleblowing – I would have said, ‘Well, look, you should not have allowed this to be done in this way, because that is not the correct procedure, but whether the procedure is right or wrong, now that the statement has been made we have to deal with it.’ That would seem to me a more rational way in which to... You do not say, ‘Well, look, somebody has been murdered in the room next door, but I did not do the right procedure when I opened the door as I did not knock’. So I have gone in and found the body and they say, ‘The body is there, but the procedure has not been followed and so we will leave the body there’. No, you deal with the situation that you find, even if the procedure is not the ideal procedure or the wrong procedure.

2585 Unless, of course, what you are saying, as has been said here and has been said previously, is that people were actually *threatened* to make statements. Well, look, this is in my judgement a nonsense. This is a complete nonsense. How can there be any credibility in the idea that you threaten somebody to make a statement and that what that statement is going to do is be put in the hands of the management, who are going to call in the threatened person and question them? What is to stop that threatened person saying, 2590 ‘No, what I have said is not true and somebody has forced me to do it’? What power can somebody have, the people that can threaten are right up at the very top – not somebody that is in middle management earning £20,000 a year. If it was a person at the top then you would be scared.

Look, I do not know whether the Ministers were fully aware of this or not, but I was told that this collection of statements was in fact copied to the Minister and was copied to the then Chief Minister, 2595 because when they were taken to the Union by the person who collected them, the Union advised that copies should be sent to the relevant Ministers so that they would know that this was happening. I do not know and I have not seen anything that shows that they were or they were not. I do not know whether that has been admitted or denied, but I would have thought that when the hon. Member talks about heads rolling and people standing, that the normal thing for a Minister to do is that if somebody tells you in your 2600 Department that something is going wrong, you check just in case it is true. I know that perhaps it is too much to ask because if a Member of the Opposition tells you across the floor of the Parliament that things are going wrong, you tell him that he must have got indigestion with what he had for lunch and that he is bonkers. If that is what they tell the Opposition then I do not know what they tell their employees.

So, of course, if the people who are politically answerable do not want to hear this or do not want other 2605 people to hear it, then there is some rationale in what otherwise appears to be an unexplainable resistance to looking into these things. It was only a long time after, in the many sessions we had in this House, when having first said – when the hon. Member opposite was Minister – having first said that it was not investigated because the procedure was wrong, having first said that and maintained that for a number of meetings they then changed. They said, ‘Notwithstanding that the procedure was wrong, it *was* 2610 investigated’. But was it investigated? What was investigated?

The statements in the Inquiry do not talk about anything being investigated. They talk about a team of social workers being sent to different flats to see what could be done to improve the management. They did not say that somebody came along and looked at each statement and checked whether there was any 2615 evidence to substantiate those allegations – that was not done and that is what an investigation means. That was not done because the evidence before the Inquiry produced by the people that were in the Department at the time, Isabella Tosso, told social workers, ‘Go to those flats and see what can be done to improve the way they are managing things in there’, which is fine. But, of course, there was not even a need to do that because if that was saying, ‘Go in there and see what needs to be proved as a result of the allegations’, then that is giving credence to the allegation. If the allegation was a complete fabrication, you do not need to 2620 send anybody in there to put things right.

So either there was no investigation because they looked at the allegations and they said, ‘Yes, this seems to me to be true. Something is wrong and I want to send the social workers there to put it right and forget doing anything else’ or in fact the exercise of going into those flats had nothing at all to do with the allegations that were made and the statements that were produced. It was something that was being done for 2625 management reasons, independent of those, and therefore when Parliament was told by the Member opposite that the investigation had taken place subsequently by the social workers, he was *misleading* the Parliament because it was not an investigation that took place, because an investigation means getting a piece of paper, looking at the allegations, calling people in and trying to get to the truth. Nobody was called in – neither the people who made the allegations nor the people against whom they were made.

2630 The June statements were provided to Isabella Tosso, as I have said, but of course Isabella Tosso herself, in the context of another case, has made very clear that she did not support a decision that was taken not to proceed with the disciplinary hearing. How is it that when it suits the Government the decision

is taken at that level and when it does not suit the Government the management is then told what they need to do? Well, look, if the Government felt that they could go and tell Isabella Tosso what was best by telling her when not to proceed with disciplining people, then clearly they had the power to do something about it when initially this situation arose and deal with it. If in fact it is so simple and so straightforward that everything that was being said was being made up by the people who were working there... which I do not believe for the very simple reason, Mr Speaker, that they made the same accusation and the same claim about the subsequent statements made, which I know not to be true, because I happened to be the person that was involved in those witness statements and not, as the Leader of the Opposition has said, my friend and colleague, Fabian Picardo.

The statements in the GSLP, which he thinks is terrible in the office of a political party, that there were witness statements being taken... if it is a lawyer's office, it is alright, of course. How can we dare to go, us mere mortals who are no lawyers that we can actually take statements from people. Of course, the only difference is we do not pay. We do not get paid for the statements. We do these things free of charge and so there must be something wrong with us. But we can go to a lawyer's office and the guy there sits down and writes what you tell him and charges you £200 for an hour's work. That is perfectly alright and the legal system is very happy with that. Of course it is a closed shop. (*Interjections and laughter*) Of course you are happy. But what happens is that when people do not pay, then their clients are sent to people like me who do it for nothing because the reality of it is that the only reason why it finished in my hands was because the Union decided to stop paying, otherwise I would not have been involved at all.

So let us be clear that this was not an agenda driven by the GSLP in order to find something to attack the Government – as if there were not a thousand other things that we could attack the Government on. We did not *pick* this battleground. The battleground arose because the Government failed to do what they should have done and behaved as they should have done.

In the statements that have been made by the Report on the Inquiry, it is not the case, Mr Speaker, that it is as clear cut as the hon. Member would have us believe. It is clear cut about me, but I do not expect Chairman Parker, who is not Chairman Mao (*Interjection*) to say anything good about me, given that the last time we met was when the hon. Member, the backbencher, was trying to get rid of Schofield. He came to do a hatchet job and I was there on Schofield's side. (*Laughter*) I went to speak on behalf of – (*Interjection*) and the fact that Chief Justice Schofield on top of it, I suppose, to make matters even worse, on top of it actually said, 'We were right when the appeal of the tribunal was said... must have also helped Chairman Parker to see things in a particular light.' But we will see. This is not yet over.

One of the things that is almost incomprehensible is that we have got one particular case, which I am going to mention as an example, and I think it is 'T'. This is a lady in the Home who makes allegations of sexual abuse. This is a lady that Dr Galloway says is quite capable of being cogent and there is a letter saying that what she is capable of saying is something that you cannot say this person is suffering from a disability that makes it impossible for this person to express themselves. The psychologists employed by the hon. Member opposite produced reports of this lady. I brought that to his attention in one of my questions many years ago and he said he did not know anything about it. This was done in March 2005. This lady writes a witness statement to the Inquiry which almost repeats exactly what she said 10 years ago. The people mentioned in her statement are the same people that were mentioned 10 years ago. The Chairman concludes that he believes the denial of the people involved.

I am not in a position to say what happened or what did not happen because I do not know, but I am in a position, as much as anybody else, of reading what has been said and making my judgement of the judgement of the person that said it. And what the person who looked at this case said, 'Well, the psychological report supports the allegation.' That is true. The Attorney General said that he tended to believe that it was true, but that regrettably he had decided that he did not think it was possible to get a conviction and therefore there was no point in starting a case.

Dr Galloway says that this person knows what she is talking about. Anybody, even a layman, would think that for somebody to be saying that this happened to her 10 years later is because the trauma that happened to her is there and it is still, even though that person... and we all know that regrettably people with disabilities tend to age quicker than those who have not got them, and this lady is now 10 years older and therefore –but the evidence of the professionals is in support of what she says. But the conclusion is that...it is not even a question. He says he agrees with the decision of the Attorney General that they should not prosecute because the level of evidence is not sufficient to get a prosecution. But it goes further. He says he does not believe it happened.

He concludes that she may believe it happened, because she lives in a world which is unreal for the rest of us; but it is her real world. And the reason why he believes that is because having heard the evidence of the three persons who are alleged to have done this by this lady... we are not talking about hearsay. We are not talking about somebody saying, 'I was told so.' This is the victim saying, 'This is what happened to me.' It is the only victim who has actually put something in front of the tribunal inquiry – the only one. And then when the Chairman writes the Report, he says:

‘Having listened to the denial of the alleged perpetrators of this offence, I am convinced that it would not be in character for them to have done it.’

2695 I do not know what they teach lawyers nowadays or what they teach judges, but I would say that if you
can listen to three total strangers for half an hour each and conclude that you know them so well that you
can say it is impossible because of their character for them to have done this 10 years ago... well, look, you
are in the wrong profession. You should be a psychiatrist if just by looking at somebody you can say what
their character is and what they can do or what they are not likely to be doing. And that is the evidence
2700 upon which there is a conclusion that the three people who are alleged to have committed an offence did not
commit it: that the psychologists have got it wrong, that the lady who claims she remembers it happening
has got it wrong and that the Attorney General who said, ‘I believe her, I believe her, but I have not
proceeded because I could not get a conviction’. Well, look, if you cannot get a conviction then there is no
point in going to court if you are going to lose it, I understand that, but I do not think that it is enough to
persuade me that because you have listened to somebody for half an hour and he has made a good
2705 impression on you, you think it is impossible for this guy to have a character that would do this.

Mr Speaker, the world is full of serial killers whose character would appear to be impeccable if you met
them for half an hour. If it was possible to spot killers or conmen on sight, they would all be in jail, they
would not be roaming. And that is the quality of the judgment that we have reflected.

2710 Well, okay, if we are going to go into a debate about this, if what you want is apologies, if what you
want is... no, what you want then must be the truth. (*Interjection*) And this is, (*Interjection*) No, the truth
according to you, that suits you? No: the truth, the whole truth, and nothing but the truth, whoever it suits.
Because nothing...

2715 Mr Speaker, we have nothing to gain or lose. We have stood by a principle that there are people saying
things are wrong, and that those people have got a *right* – a right which no government should deny them –
for them to be told, ‘Okay, I will give you the benefit of the doubt.’ You are saying it is wrong? Let us look
into this and let us do it openly and let us do it transparently. If you do not do it, then you can only blame
yourself if people think that you are not doing it because you have got something to hide.

2720 So, I am afraid that the hon. Member has made a serious mistake in bringing this here and in thinking
that this is something where we are going to let him walk out of this Chamber, saying ‘We were right all the
time and the other side have been wrong all the time.’

2725 Mr Speaker, if I gave you one final example of the quality of the assessments that have been made, one
of the things that happened when Isabella Tosso disappeared was that they had somebody else coming in as
manager, Iain McNeil, and in the stages of when the tribunal appeared to be finally going to happen, which
it didn’t, given that there was supposed to be evidence – which of course did not exist – that the problem
was lack of management skills and that was what created the dismissal, they produced a new witness
statement made by Iain McNeil. They presented as evidence in the Industrial Tribunal the business plan for
Dr Giraldi Residential Services, prepared by Iain McNeil and Sharon Berini in 2006, when it looked as if
the tribunal was finally going to meet.

2730 This has also been given to Chairman Parker, and he is very impressed with it. He is so impressed that
he says that it is the most wonderful piece – it is in the Report, the Members can read it – the most wonderful
piece of... plan that he has ever seen; that it guarantees the future running of the home problem free, that he
has never seen such expertise displayed.

2735 Well, when this was produced, I first noticed that the font of Dr Giraldi was different to the font of the
rest of the document. Then when I looked at the back I read that this is crown copyrighted in the United
Kingdom, and then I realised that this wonderful job is a download, copy/paste from the Department of
Health, and that they have not even bothered to remove the references to all the things that exist in the UK
which do not exist in Gibraltar.

2740 The quality or the ability to make judgements is reflected in that this is perceived by the Inquiry’s
Report to be the most fantastic job produced by Iain McNeil and Sharon Berini. Sharon Berini, after this
fantastic job, left one month later and Iain McNeil left two years later and nothing was done about the
famous business plan.

2745 So the inquiry has not even bothered to do its homework in finding that this was produced for the
tribunal and no further use was made of it. Therefore, if we are going to be looking in detail at this Report,
then we are going to look at every full stop, comma, and paragraph.

Thank you, Mr Speaker.

Mr Speaker: Does anybody else wish to contribute to the debate?

2750 **Chief Minister (Hon. F R Picardo):** Usually the sides alternate, but if nobody else is going to speak on
that side, then I am ready to speak.

In that case, I am quite happy to alternate with the hon. Member.

Mr Speaker: The Hon. Mr Netto.

Hon. J J Netto: Thanks, Mr Speaker.

2755 In my Budget address of 2008, I said that the last six months in particular – that is before the Budget – that the GSLP and the GLSP-friendly media outlet have conducted a relentless and scurrilous campaign primarily against my hon. friend, Mrs Yvette del Agua and by extension, to the GSD Government, by using the Dr Giraldi Home as a political tool.

2760 In that speech, I went on to state that such an orchestrated campaign by the then Opposition was nothing more than a political circus, which not only manipulated the facts, but also had the effects of tarnishing the reputation and good work of the staff at the home, and causing unnecessary anxiety to both the staff and the relatives of the residents of the home.

2765 Once again then, as I have done previously, and as I was to do again after that Budget session, I said categorically that the allegations made by the then Opposition had all been investigated by the then Social Services Agency, and that according to the circumstances of each case, members of the staff had either been dismissed, reprimanded within the disciplinary code of the then Social Services Agency, or such allegations dismissed because they were found to be untrue or unsupported by evidence.

2770 It is comforting to note the statement made by the Rt. Hon. Sir Jonathan Parker QC, where he did acknowledge that all allegations were investigated and action taken in one form or another, taking account of specific circumstances of each case. It is also comforting to note that Sir Jonathan accepted the evidence to the inquiry by Sir Peter Caruana QC. This is important because of the campaign by the GSLP and their friendly media outlets to portray the idea that he had used his political position as Chief Minister to suppress the allegations, or in giving instructions to the RGP or the Attorney General, as to how such institutions should deal with such allegations.

2775 The facts remain that Sir Jonathan did not find any shred of evidence to suggest that such interference by the then GSD Government had taken place. It is also comforting to hear that the right honourable judge said that he accepted, without qualification, the evidence of Yvette del Agua, Sir Peter Caruana and myself, something that contrasts vividly with his opinion of the credibility of the Hon. the Father of the House, the Hon. Joe Bossano, when he says that Mr Bossano's suspicions were 'unfounded in every respect'.

2780 The fact is that I was very clear back in 2008, and subsequently, that the whole campaign of untruth, distortions, and character assassinations by the GSLP and their friendly media outlets was designed as a political instrument to tarnish and smear the reputation of the staff of the Dr Giraldi Home, in the hope that this would serve them well at the 2011 general elections. It was a means towards an end, without any consideration for the staff and the reputation of the many hard-working employees. I clearly remember members of staff telling me as Minister that as a result of the incessant imputations by the GSLP friendly media outlets, they felt that they were being personally identified in their private time outside the homes. They felt badly let down by the comments of the Members of this House in the TV programme of '*Espejo Publico*', which led the producer to describe the Dr Giraldi Home as 'the house of horrors'. This was a shameful and disgraceful episode by Members Opposite for which they have never apologised, despite the harm done to these employees, the residents of the home or their families.

2790 Today the Chief Minister is given the opportunity to apologise for the participation of his party in that programme. If he does not want to write to the producers of the programme, as the motion suggests, the least he could do is to apologise.

2795 In relation to Ms Hernandez, I will repeat what I have said on a number of occasions, and that is that I feel sorry for this lady. Any objective analysis of the Inquiry Report will demonstrate that this lady was not fit to be the manager of the home, and I will not go any further than that. I will say, nevertheless, that those who advised her from the GSLP/Liberal Party did not have her best interests at heart. Instead of providing the best possible counselling, she was used as a political pawn for partisan interests.

2800 Mr Speaker, given the outcome of the inquiry, which is a complete political fiasco for the GSLP/Liberal Party, some kind of pseudo defence will need to be invented in order to justify the unjustifiable new fact that the Leader of the House we have just seen trying to rewrite the inquiry itself. But in reference to the statement made by the Father of the House, what he has omitted to say, what the honourable judge did say, in volume 4, page 668, which says:

'However the Home has gradually improved during the period under review'

– that is between the year 2000 and 2005 –

'and especially after 2005/6 in terms of staffing, procedures, working practices and impact on care.'

2805 One valid comment that can be said about Social Services in general is that while increasing his budget well over the rate of inflation in real terms is important, something that is the track record of the GSD

Government, there is always room for improvement. I always accepted that, as Minister with responsibility for Social Services, but the fact remains that we invested heavily in this area.

2810 As far as expenditure is concerned for Social Services, the GSLP Government inherited the budget from the AACR Government in 1988 of £412,000. By the time they left office in 1996, the budget for Social Services stood at £1 million. This represents an increase in real terms, after adjusting for inflation, of 71.6%. As far as the GSD Government's track record shows, we inherited a budget of £1 million in 1996, and by the time we left office in 2011, it stood at £5,814,309. This represents an increase in real terms, after adjusting for inflation, of 321%.

2815 One of the ironies for me about the criticism by the Father of the House in our handling of Social Services was his own track record. After construction of the Dr Giraldi Home, under the auspices of the then GSLP Government, the building remained closed for two years because, in the words of the then Chief Minister, 'the Government could not afford to employ professionals' – and it is in *Hansard*.

2820 After two years in which the home was closed to vulnerable service users, it was then decided to open the home run by a Catholic charity on a shoestring budget. That only happened after much pressure from the families of the potential service users and their association – in other words, under the GSLP Government, run by the man who orchestrated the Dr Giraldi Home campaign – when we were in Government, the Dr Giraldi Home was not even run directly by Social Services, but rather by a church charity.

2825 This contrasts sharply with the decision we took when we were elected in 1996, when we took over responsibility directly for the home and kept it growing in staff and resources throughout the years we were in Government. It grew from a handful of staff under the GSLP Government to well over 50 by the time we left office. Included were six qualified nurses specialising in mental health and learning disabilities among other areas.

2830 I also take note of the comments by Sir Jonathan in relation to the secondment of Mr Carlos Banderas under my term of office, in which he is credited with further advancing the Home policies and procedures, and improving further the relationship between service users, staff and the family.

2835 Mr Speaker, using people as a means towards an end, regardless of the harm done to people, is not new. It has unfortunately a very long history in the annals of political life and history. Perhaps the first person to describe its usage in political philosophy was Niccolo Machiavelli in his famous book *The Prince*, written in the 16th century. Ever since then, we have come to apply the term 'dirty hand' to describe the use of campaigns designed to denigrate, mislead, distort, manipulate, torment, and to generally formulate smear campaigns on political opponents.

2840 With the passage of time, history will tell us that the Dr Giraldi Home Inquiry and the years of underhand tactics used by the then GSLP/Liberal Opposition, was indeed part of the dirty hand orchestrated campaign to undermine the GSD Government, even if it had the effect of tarnishing the morale and the staff of the Dr Giraldi Home, and causing untold cruelty to the staff in their professional and private lives. This type of politics which uses people as a means towards an end in general is wrong, but in a small community as Gibraltar it is even worse, (**A Member:** Hear, hear.) as the effects are more pernicious given our size and the fact that there is no hiding place for anyone. (*Banging on desks*)

2845 We cannot have a situation in which a political party devises a strategy to get into Government by using vulnerable people, by denigrating workers in the institutions that they are employed to serve, and not having regard for the misery and anguish done to such staff, service-users and their families.

2850 As a community, we need to move away from having another repetition of using workers for party political ends, as we saw the political and industrial unrest artificially provoked by the GSLP party in the then Kvaerner Shipyard, placing hundreds of workers in the unemployment lists in order to create financial problems for the GSD Government.

2855 Whilst I do not expect that the party in Government today, which is the party that caused so much damage to the morale of workers of the Dr Giraldi Home, the residents and the families, to apologise for the actions when in Opposition, I do believe that the motion in front of us does provide an opportunity to undo some of the damage done. We should all vote in favour and raise the standard of political behaviour for the future.

Thank you, Mr Speaker.

2860 **Several Members:** Hear, hear. (*Banging on desks*)

Mr Speaker: The Hon. the Chief Minister.

2865 **Hon. Chief Minister:** Mr Speaker, can I start first of all by congratulating the Hon. the Father of the House for what has been, in my view, one of the most passionate and masterful interventions I have seen him make since I was elected alongside him in 2003.

I have told him, although he does not take it as a compliment, for reasons I find a difficulty in fathoming, that his forensic analysis is worthy of one of the best lawyers at the bar. But he does not quite like those analogies.

2870 I am not the only one who makes such an analogy, as we will see in a few moments, Mr Speaker, and all of us who make it mean it in the positive. In fact, Mr Speaker, those who have seen me give an interview in relation to this matter of the Dr Giraldi Home will have seen that the Government was in fact ready to let matters lie and move on, but in fact hon. Members, it appears, want to simply use this matter to continue to stir and actually do exactly what Mr Netto has said should not done, in other words, use the allegations that
2875 have been made against vulnerable people in a way that is designed simply to gain them some political advantage.

So Mr Speaker, it may be that there is a lot more to be said about the allegations that were made, not by Joanna Hernandez or by Joe Bossano, but by the relatives, and indeed on one occasion one of the alleged victims themselves, of what might have been happening at the Dr Giraldi Home.

2880 Mr Speaker, the Hon. the Leader of the Opposition started the afternoon by talking about the Government wanting to bury a debate on the motion because we are having the sitting late in the month and because it may be late in the afternoon. In fact, what happens is that the Government has a very busy agenda. The Government has an extraordinarily ambitious manifesto, one that we are fulfilling. But of course civil servants are available until 3.30 and we need to be in the office working with those civil
2885 servants on matters which really advance our economy and the needs of our community. Coming here to debate motions, even our own, is not something that should take priority over the delivery of the manifesto that is in the interests of our community.

So we come here, Mr Speaker, once the civil servants who work during the day are finished for the day, and we can continue, because we want to, in this Parliament, to deal with these issues.

2890 But Mr Speaker, when he talks about, because we are coming late, wanting to bury the motion. He needs to be reminded that this is the latest the Parliament has ever sat while I have been Leader of the House, but it frequently sat until this time and later when the Hon. the now backbencher used to be Leader of the House. It only used to meet twice a year or three times – twice when there was an election; three when there was not – and it frequently sat very late indeed. I often hear –Hon. Members who have been
2895 here longer than most remind me – of the fact that Parliament used to sit so late.

So either sitting late is just an incidental matter which relates to the important timetable of Ministers or it is an attempt to bury debate, in which case he is now the leader of a party that has form on this matter, having sat later more often than any other previous Government.

2900 So it may be that what he is doing, in now decrying that, is simply once again demonstrating his duplicity and duality politically by saying one thing although he is leading the party that did the other – typical, Mr Speaker – or he is just repositioning his party, in other words converting the GSD into the GSLP, as he appears to be trying to do in so many other areas.

The fact is that we have no desire to bury this motion. We want everyone to hear what we have to say in respect of it. I want everyone to know what the Hon. the Father of the House has said. His forensic analysis
2905 has been absolutely superb. It has set out all of the reasons why there should be serious concern in this community about what happened at Giraldi.

In particular, I would like the community to know about the copy/paste job that was done on the business plan, and which he has demonstrated to us today was in fact therefore not a document worthy of being praised by anyone, unless of course you are of the school of those who copy the prefaces to manifestos word for word and simply change the name at the bottom. I cannot imagine who in the recesses of my memory I might recollect ever did that – ah yes, the now backbencher who did it at the time with a Liberal manifesto issued by Mr Paddy Ashdown in the campaign in the 1980s, which became his foreword in the early 1990s. A copy/paste job it was, Mr Speaker, so I want to thank the hon. gentleman for reminding us of that and giving us an opportunity to reflect on that.

2915 I want to declare, before I get into the meat of what I am going to say, that I was involved in these matters when I was a lawyer. I was involved in representing Joanna Hernandez on the instructions of Unite the Union. I also represented before then, also on the instructions of Unite the Union, those referred to in paragraph 4e of the executive summary, in part 4 of the Report. And in fact I was provided with a letter – which hon. Members will not have seen because the matter I am going to come onto was never dealt with –
2920 but a letter by Unite confirming that I could deal with the Joanna Hernandez matter, although I had dealt with the matter of the individuals referred to in paragraph 4e because they waived their conflict in this matter.

But I was also the subject of a complaint to the Admissions and Disciplinary Tribunal of the bar, brought on behalf of Michael Feetham, who I understand is related by blood to the Hon. the Leader of the Opposition, and Unite, represented by Mr Rafael Benzaquen, who was shortly with us in the Gallery but appears to have left, and an erstwhile member or current member of the Executive Committee of Members
2925 Opposite, in an attempt to seek that I should be disbarred.

It is important that I make those declarations because I am going to come onto matters which relate to that. The fact is that on 9th December 2011, people voted for a change of Government, and in doing those of us who were elected believe that we have an obligation to comply with the commitments that we gave the public in the General Election. Those commitments include, and if hon. Members read the inside page of our manifesto, not just the things contained in our manifesto, but also the things which were said in press releases during the course of the previous year.

In a press release – and this is just one of them – in a Press Release dated 11th February 2009, the policy of the Opposition – the GSLP/Liberal Opposition as it then was – was that we reiterated that a full independent inquiry into the allegations should take place. Our manifesto says that all our commitments are in this manifesto, or in some of the press releases that we have issued. It was therefore included, Mr Speaker, in the case we had laid before the public in the four years leading up to the general election, that there should an inquiry into the allegations made in respect of the Giraldi Home. We urged that they should have done it whilst they were in Government. Therefore in convening the inquiry I was giving effect to the will of the people who had chosen this particular party that had made those representations during the course of the lifetime of the previous Parliament.

Why did we do that? Let me just quickly in general terms try and summarise that.

These were not the sorts of allegations that hon. Members sometimes face us with. Hon. Members get up and say, ‘Well, I have been stopped in the street by a person who has told me...’ or ‘we have heard rumours that...’ If we were basing ourselves on that, hon. Members might have an argument for saying, ‘You are really blowing this out of all proportion.’ I mean, people can stop you in the street in Gibraltar, especially if you are politically responsible for something, and tell you just about anything that you would like to hear.

Certainly I have heard things about hon. Members Opposite that I have said to myself, even in my wildest imagination, of how dreadful Members Opposite can be to me across the floor of the House, I know that they would never venture not to care about children etc, because people just say things. But this is not people just saying things, Mr Speaker.

The situation in which the Hon. the Father of the House found himself was an invidious situation indeed. He found himself in possession not of notes, not of rumours, but of *sworn witness statements*, which, sworn witness statements, made allegations that abuse and misconduct etc had taken place.

In the United Kingdom now we are seeing a flurry of activity convening an inquiry into alleged child abuse based on things that have been said and documents that might have existed. There was going to be an inquiry into whether there was a dossier that alleged that there might have been child abuse by certain individuals in the past. Not that there is a dossier with sworn statements in it that makes the allegations, but that there is a rumour, there is a belief, there are allegations, that there were allegations in writing at some stage.

The Hon. the Father of the House finds himself actually *with* sworn statements making these allegations, and in that context he acts entirely properly in the way that he deals with this.

Mr Speaker, the hon. gentleman has said that we should apologise or we should seek to clarify to ‘*Espejo Publico*’ what has happened, and correct the defamation that he has said that they did on Gibraltar. We will come to what was said in ‘*Espejo Publico*’, and what defamations there were or were not.

But I am left with just one feeling in all of this, and that is that the way that hon. Members have phrased everything that they have said about the Dr Giraldi Home, they would *only* consider that the money in the Dr Giraldi Inquiry was well spent if there had been explicit findings of massive abuse, because the findings are not that there was nothing, as we will come to now, although the ones that we have been read by hon. Members are very selective, so I am going to read him some more.

But is it only that if the real abuse of the sort that one cannot even imagine or think about was found, then this would have been money well spent, otherwise its wasted money? Well, let us look in detail at what it is that the inquiry has found, and what it has found *did* happen.

Mr Speaker, what has not yet emerged, and given the speech that we heard from the Hon. the Leader of the Opposition, is that he is not just a mere bystander here. He is not just somebody who comes to this politically after the findings. It is not just that he was Minister for Justice whilst litigation was going on, dare I say it, in the courts for which he was tangentially responsible by his brother. But look, he can find himself in that situation, that is quite normal. There is nothing wrong with that, as long as he did not involve himself with it. If he did, then something else would have to be said, and perhaps we will come to that during the course of my intervention.

The speech that you have heard from the Leader of the Opposition today, critical as it is of Joanna Hernandez – probably in the most aggressive terms I have heard of a person who is not here to defend themselves being spoken of in this House – was uttered by her first lawyer. The person who was first instructed by Joanna Hernandez was not Fabian Picardo. It was Daniel Feetham.

And my instructions at the time were that he was very concerned to hear what had been put to him. He was going to take the case as far as he could, as usual with the hon. Member – the enthusiasm when one

2990 first meets him, 'We must go as far as we can to uncover all of this.' But then there was what lawyers call in Latin a *novus actus interveniens*. Something happened between him meeting Joanna Hernandez and being ready to take the case, and my becoming involved. Black turned to white. Night turned to day. The socialist turned to the Social Democrat, and the Labour Party was swallowed up whole.

2995 And the hon. Member, who had come to remove Peter Caruana from the post of Chief Minister of Gibraltar, forgot that he had come to bury Peter, not to praise him and ended up sitting alongside him in the executive of the GSD. And so he said to Joanna Hernandez, 'I may not be able to continue with this, because these now contain allegations against the Government, and I am now in the executive committee.' Well, Mr Speaker, if he had left it at that perhaps...

3000 But when Joanna Hernandez instructed somebody else, namely me, through Unite, who were prepared to fund him or me doing the case, because we were both at – dare we say it? – Hassans, Mr Speaker. The hon. Member refused to release the file. For quite a while he had to be cajoled and even written to, to release the file, not to another firm, but to another lawyer within the same firm!

Incredible, Mr Speaker – incredible *then*, but to have heard him speak the words he has spoken today, for Joanna Hernandez's first lawyer and confidant on these matters, to have got up and said the things he has said today, demonstrates once again the duplicity and the duality of the hon. Gentleman opposite.

3005 Mr Speaker, her knight in shining armour, as he then was, turned to rust. Her white knight turned to darkness, as we all know, and her faith in him, like the faith that so many others might have had in him, entirely dissipated.

3010 He started by saying that members of staff at Dr Giraldi have stood steadfast over the years whilst the GSLP did this and that, and all the rest of it. He wanted to congratulate them all for having stood so steadfast. Does he know that there are only five members of the Dr Giraldi Home employed today who were employed at the time of the allegations? So, I do not know who it is that, as a cadre of staff, all stood steadfast – but I suppose when he then says how can we accuse them, from the Government to the Opposition, of doing Gibraltar down when they say the things that they do – that we should look at what we did in '*Espejo Publico*', we should judge him by the same standard. I want to congratulate all the staff – probably 30, 40 or 50 of them, now just five – all the staff who have stood so steadfast.

3015 He calls Joanna Hernandez our 'political activist'. He talks about my having represented Joanna Hernandez at the directions hearing. Yes, for all the reasons that I told him. But listen to this: he calls her our political activist. She was *his* client before she was my client or saw Joe Bossano looking after her. He had the chance of having dealt with this matter.

3020 He says that I represented Joanna Hernandez at the directions hearing, but he did not bother to say to you: 'because I had been her lawyer first. I had given up the case and they had to prise the file from my fingers.' He says that her accusations were *vile*. But he does not say that the accusations were all of them related to him, and that he was ready to take the case, except that he made a political pirouette of the sort that Gibraltar does not often see. It was only that that determined that he would not.

3025 So much for things being *vile*. But maybe, Mr Speaker, it is because he forgot, and last time when we were having a debate which led to the motions, I invited him to say that he simply forgot. This time I do not think that he would want to accept that he forgot that he had represented Joanna Hernandez and that he was her first lawyer. But he has said so many things that he is capable of forgetting a lot of what he says, because he just says a lot – because of course, he says a lot, but it does not mean anything, Mr Speaker.

3030 In fact, one of the things that we are going to come to, especially when we look at what was said in Spain and what he would like to think was said in Spain, is that he is obviously forgetting things. This is about his selective amnesia.

3035 In fact, they do not like it when we remind them of the *enchufes*, of the £8 million that they buried in the hole that was the Theatre Royal, the £90 million airport, the Rosia Tanks, the defective works at Cumberland. They do not like to be reminded of that, but they like to remind us about the Dr Giraldi Home Inquiry. Well, we are delighted to be reminded about it, Mr Speaker.

3040 But maybe he is just suffering again from the same amnesia that made him forget that he was the lawyer for the Sunborn – the same amnesia that made him forget why he had originally come to Gibraltar, or the same amnesia that led him to say that the man he had come to remove was actually the greatest Gibraltarian of all time. There is so much amnesia in the gentleman opposite that I sometimes think I should serenade him with a verse of that great song from Andrew Lloyd Webber, 'Memory'.

3045 But the more that he goes on and the more he says, I actually think I should go onto another song in that musical, which is 'Bring In The Clowns'. Because what he has done today is not deal with the Dr Giraldi Home Inquiry and its findings. He has wanted to read an indictment of the *VOX* newspaper. He has wanted to talk about how the *VOX* newspaper said this or said that. Well, the *VOX* newspaper is no longer printed. They managed to do that by a combination of aggressive litigation in which his brothers and he were involved, and by withdrawing advertising. They brought the title, which had been until then the longest surviving title in Gibraltar's media history, to its knees, destroyed it, and now it is only a web publication.

3050 They say that we spread unfounded allegations in Spain in ‘*Espejo Publico*’; that Gibraltarian politicians, namely the Father of the House, became participants in Spain on TV programmes denigrating our institutions. I cannot actually think that the hon. gentleman has bothered to do his homework if he said that. He cannot have bothered to watch the YouTube video of ‘*Espejo Publico*’. You cannot ever accuse us of doing Gibraltar down, given what you did on ‘*Espejo Publico*’. We have not even had an apology for your shameful intervention.

3055 Mr Speaker, the Hon. the Father of the House took him to it. I am going to take him to a different part, which includes the part that the Hon. the Father of the House read. He either has not done his homework, or he realised after he put the motion that he just remembered that there was a programme called ‘*Espejo Publico*’, but had not checked what had been said on it before putting pen to paper. Maybe that is a case of pen engaging before brain.

3060 The interviewer from ‘*Espejo Publico*’ says something in the clip which the Hon. the Father of the House is going to be very angry at indeed, because he starts – and I am going to have to read in Spanish, Mr Speaker, but I will do a little bit of translating – he starts by saying this:

‘*El abogado Joe Bossano*’

– (*Laughter*) Spanish TV programmes *never* do their research on Gibraltar –

‘ex-Presidente de Gibraltar’ –

– (*Laughter*) do they not realise he is just president for life of the youth section of the GSLP? –

‘... ha tardado tres años en demostrar que Joanna Hernandez no fue despedida procedentemente. Como lider del partido laborista tambien ha intendado que se aclare lo que ocurre en este centro.’

3065 So they are talking about Dr Giraldi. They say it has taken him three years to demonstrate that she has been unfairly dismissed, and as the leader of the Socialist Party he is trying to show what happened in this place, the Dr Giraldi Home.

And then Joe Bassano says these dreadful words, which are the most disgraceful and vile defamation of an institution in Gibraltar that I have ever read, if I were to believe the hon. Gentleman’s description of them, and this Mr Speaker is what this House is being asked to resolve, to right and correct as a result of this disgraceful man’s disgraceful statements:

‘Yo le pregunto en el parlamento, bueno, si todo esto es un montaje y todo es mentira, entonces porque no se permitio que se escuchara el caso el primer dia, en el 2006? No lo ha hecho, no lo aclaran.’

3070 Mr Speaker, what Joe Bossano said is this:

‘I ask in the Parliament, well, if this is all a stitch up, a set up, and everything is a lie, then why did you not just allow the case to be heard on the first day in 2006? They have not done so, they do not clear it up.’

3075 That is the sum total of the vile and disgraceful defamation of a Gibraltar institution uttered by Joe Bossano, which the hon. Member has said we must now write to ‘*Espejo Publico*’ to correct (**Hon. J J Bossano:** In my office.) – and not in Spain, by the way, but in his office.

He then goes on, because the clip goes on:

‘El resto de la oposicion, el partido progresista democrata y los liberales también demandan esta investigación.’

‘The rest of the opposition, the PDP and the Liberals, also demand such an investigation.’

‘Nadie se atreve a asegurar en Gibraltar que las acusaciones sean ciertas, pero mientras no se aclaren los hechos siempre quedará sombra de la duda.’

‘Nobody in Gibraltar dares say that the allegations are true’

– neither was Joe Bossano saying that they were true, incidentally –

‘but until the facts are clarified, there will always be a shadow of a doubt.’

3080 Well, Mr Speaker, that was the policy of the GSLP in Gibraltar that there should be an investigation, and that until there was an investigation the allegations were being made and they could not simply be discarded.

There is an incredibly instructive set of paragraphs or exchanges where hon. Members might like to know that the interviewer is saying, ‘Actually we have had great difficulty getting people to speak on

3085 camera, because although they tell us on camera that these things might be happening and they have to be investigated, they will not come on camera because there is great fear.’ ‘Fear of what?’ says the lady in Madrid to the guy in Gibraltar. ‘Fear of the administration and taking on the administration.’

Well, Mr Speaker, if there is one thing people have been cured of on 9th December 2011, it is having fear of the administration because people now talk freely.

But the ‘*Espejo Publico*’ report went on, and it dealt with this issue:

‘Pero es tan grave el asunto, es decir que hay tanto miedo y tanto temor en Gibraltar que en principio hay que denunciar que un niño de diez años que entra allí por motivos emocionales le metan directamente en un centro psiquiatrico con diez años y que no los separen a los niños y los adultos allí.’

3090 Mr Speaker, essentially these people are saying that it is a very grave matter, to such an extent there is great fear in Gibraltar; people do not want to talk, but we have to say that one of the issues to look at is that a 10-year-old boy has been put in a mental home with older people.

Another defamation apparently, but not one uttered by Joe Bossano. As it turns out, entirely true.

3095 Now the hon. Gentleman and I do not rate each other as lawyers. That is fine. It is up to other people to rate us as lawyers, but he should know that a defamation is something which is uttered which is untrue – not something which is uttered and then found to be true. And so what we should not do is fall into the trap of putting pen to paper as quickly as the hon. Gentleman did in drafting the motion, to write to ‘*Espejo Publico*’, because we might find ourselves writing a letter that says, ‘Your report was true in respect of the 10-year-old boy.’ ‘Your report was true in respect of the 10-year-old-boy.’

3100 And if I were writing the letter, Mr Speaker, I would also say, ‘Your report was true about the fear that people felt in speaking out against the Government at the time.’

So the hon. Gentleman has to be a bit more careful with what he wishes for, otherwise he might just get that letter.

3105 Mr Speaker, nobody went on Spanish TV therefore. Spanish TV came to us. And what was said by the Hon. the Father of the House is actually entirely defensible, in the sense that it made no allegations against anybody, other than to ask why things were not being investigated.

But he says, you are now suing ABC, which we support. If you are suing ABC to put the record right, why don’t you get this letter out to ‘*Espejo Publico*’?

3110 What we have done is exactly what we promised to do, and exactly what Joe Bossano was talking about in ‘*Espejo Publico*’, which is to say that the allegations should be investigated, and being elected, we gave the opportunity to those making the allegations in the setting up of the inquiry, to come forward and say what they had to say. We never said that the allegations were true. We never said that these were our allegations. In fact, all we said is that the allegations are made and they must be properly and entirely investigated. And having done so, we can happily say that the silence has been broken and the Inquiry has been held.

3115 The allegations which were made, the hon. Gentleman said, were found to be totally unfounded. Well, they were only investigated as a result of the inquiry being called, so I assume if his case *is* that the allegations were unfounded, if that is what he is trying to persuade public opinion on, then he should be grateful for the Inquiry, because it is the only place in which the allegations have been properly ventilated, and what he says was his theory all along proved right according to his reading of the Inquiry findings.

3120 But Mr Speaker, let us look at the findings, because the hon. Gentleman has offended against the rule there would be if this were a tribunal of only reading selectively the bits that he thinks are convenient to his case. But what about all the other bits, Mr Speaker, that Chairman Parker determined in his conclusions.

Let me read to you from page 636:

‘The shortage of staff was serious and chronic problems, which added to the pressure on management and staff (including support workers).’

– this is his first finding.

Second finding:

‘Greater training of staff would have been beneficial.

During this period no “care plans” (in the sense of formal and comprehensive care plans which included input from social workers) were in place for service users.

Record-keeping and control of paperwork was not as efficiently carried out as it should have been. Missing paperwork was a real and continuing problem.’

3125 This is not in an office, Mr Speaker; this is in a place where children are in care – where adults are in care alongside some children.

‘The frequent changes in management personnel contributed to this problem, not only because such changes involved a degree of disruption to the smooth running of the Home but also because handovers between one Manager and the next were carried out in a relatively perfunctory manner, to the extent that they were carried out at all.’

‘What if one of your relatives were being looked after with this system in place?’

‘There were also continuing problems throughout this period in relation to the management of petty cash.’

– one of the allegations relates to petty cash.

‘Lack of control of medication was also a continuing problem during this period.’

Not in one’s home, but in a home run by the Government – lack of control of medication.

‘On one occasion, a resident was given a repeat dose by a carer coming on shift who did not know (and had not checked) whether the dose had already been given.’

And these people are in the *care* of the Government, Mr Speaker.

‘On other occasions, a resident was either under- or over-medicated. These incidents demonstrate that procedures in relation to the control of medication during this period could and should have been improved.’

3130 Some of the allegations related exactly to that:

‘The physical facilities at Bishop Healy (which was used by the Home as a temporary measure following flooding at the premises at Smith Dorrien Avenue) were inadequate.’

I did not hear him read those findings, Mr Speaker.

Joanna Hernandez’ efforts in this respect were supported by Sean Matto – Mr Speaker, they are talking there about the shortage of staff issue:

‘... in a contemporary report in which he described the effects of the shortage of staff’

– under them, the ‘great investors’, as Mr Netto described them –

‘as “at best unfair, and at worst abusive”.

with greater numbers of staff a higher standard of care could have been provided.
Shortage of staff also resulted in members of staff becoming seriously overstretched...
Throughout this period there were continuing problems in relation to the control of medication, and in relation to lack of security.

I accept Joanna Hernandez’ evidence that she attempted to improve the physical activities at the Home, and that she introduced a number of improvements to the running of the Home (including arranging for regular group meetings with relatives of service users)’

3135 Her first lawyer did not refer you to that, Mr Speaker. Let him leave it to me and I will.
On one occasion, says the Report:

‘Another resident was locked in his room in the dark. That was inexcusable conduct by the carer responsible, but the evidence is that such conduct was “stopped”.’

But it happened and that is what the allegations related to, Mr Speaker.

I did not hear Joanna Hernandez’s first lawyer read you that bit – or this bit, Mr Speaker:

‘In her evidence to the Inquiry, Simy Herbert alleged that members of staff used to speak disrespectfully to residents. I do not doubt that that may have happened on occasion, and clearly it should not have happened.’

3140 All of the allegations in fact are slowly being made out; it is just a question of degree.
And a lengthy section here, which is important because it goes to the crux of what happened:

‘Chris Wilson’s evidence in relation to the availability of Isabella Tosso was singularly unhelpful. He wholly failed to give that matter the importance it deserved, or to treat it with an appropriate degree of urgency.’

This relates to the Industrial Tribunal, Mr Speaker.

‘The fact that he made no effort himself to discover how to contact Isabella Tosso beyond making inquiries of some of his colleagues demonstrated a quite remarkable degree of passivity on his part...’

Marie Gomez told the Inquiry that she had not “seen or heard of Ms Tosso since 2007”. That is inconsistent with the fact that the latest in the series of emails referred to earlier was an email from Isabella Tosso to her dated 12 August 2008 in which Isabella Tosso described her as “my friend”, and signed off with kisses.’

– a curse of modern e-mail, Mr Speaker –

‘Asked whether she was aware at the time of the substantive hearing that the fact that Isabella Tosso would not be available to give evidence meant that the SSA would not be in a position to defend Joanna Hernandez’ claim, Marie Gomez said (in effect) that she was too busy with her work to think about anything else. (A Member: Shame.) I do not believe that answer.’

– that is what the Report says –

‘In the course of their email correspondence, Isabella Tosso gave Marie Gomez her office telephone number in the UK. Asked why she had not tried to contact Isabella Tosso on that number, Marie Gomez replied:
“To tell you the truth I did not even realise I had the office number. I probably scanned the email and just, you know, went on working. I was too busy.”
I do not believe that answer.’

– says Chairman Parker.

And goes on:

‘Marie Gomez went on to give a number of equally evasive answers to questions from counsel. They demonstrate beyond any doubt that during the period leading up to the substantive hearing on 9 April 2008 Marie Gomez not only knew how to contact Isabella Tosso but was in regular contact with her; and that they remained in contact thereafter. Her repeated attempts to disguise this obvious fact in her oral evidence cannot be attributed to a faulty recollection: her evidence on this aspect represented, for whatever reason, a deliberate attempt to mislead the Inquiry.’

3145 Joanna Hernandez’ first lawyer did not think he should read you that, Mr Speaker; he was only interested in laying into her, not reflecting what the reality of the Inquiry Report sets out.

And it goes on:

‘As to the unavailability of Isabella Tosso, there is no evidence that Chris Wilson’s passive attitude in relation to her unavailability represented a deliberate attempt on his part to prevent or delay discovery of her whereabouts. But I am satisfied that it was simple a case of slackness and inefficiency on his part.’

– the human resources manager of the place where some of us are putting our relatives to be looked after.

And, Mr Speaker, slightly better things:

‘Overall, the evidence presented to the Inquiry paints a healthy picture of the current state of affairs of the Home.
[...]
According to the evidence of Gina Llanelo, the perennial problem of staff shortages continued during that period.’

3150 When the hon. ‘Great Investor’, Mr Netto, was at the Social Services Agency investing more money than anybody had ever invested.

‘However, the problem has been addressed to the point where it is no longer so pressing.’

– not under him –

‘In consequence, the standard of care which the staff are able to offer service users is higher.’

Finally Mr Speaker, in Chairman Parker’s general conclusions, I do not know why the hon. Gentleman did not read you this first one:

‘There were some instances of mismanagement, misconduct and malpractice (including abuse) at the Home, but they were infrequent and at the lower end of the scale of seriousness.’

3155 But he says there were some instances of mismanagement, misconduct and malpractice including abuse. Can somebody explain to me if I was a relative of one of the people who was subject to mismanagement, subject to misconduct, subject to malpractice, or indeed subject to abuse, how anybody is going to persuade me that something is at the top or bottom of a scale of seriousness when I have entrusted one of my relatives to the care of the administration?

The second conclusion:

‘Many of the allegations in the witness statements filed on behalf of Joanna Hernandez in the Industrial Tribunal in 2006 ... were untrue, grossly exaggerated or unsubstantiated by credible evidence.’

3160 Well, that sounds a bit negative of Ms Hernandez, doesn't it? I think the hon. Gentleman did read that one. Her first lawyer did read that conclusion.

But read this forensically, Mr Speaker:

'Many of the allegations in the witness statements...'

Any lawyer who reads that realises that it does not say *all*. It does not say all, Mr Speaker.

3165 Mr Speaker, the third conclusion is in relation to that, as follows:

'To the extent that such allegations were established on evidence, the incidents in question were largely historic and infrequent.'

In other words, Joanna Hernandez' witness statement contains truths which are proved, but they happened some time ago and they did not happen too often.

Well, Mr Speaker, if it was one of my relatives, I do not care if he has been abused once or twice, 10 years ago or 20 years ago. He has been abused and I would not want to watch any of my relatives abused when he is in the care of the administration.

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But let us end on a positive note, Mr Speaker. Sir Jonathan Parker says this:

'On a positive note, however, I can report that the home is now in much better order and is better run than it has been at any time during the period which the Inquiry has had to investigate.'

Well, Mr Speaker, so much for there being nothing in the findings that support the decision that we should have carried out this Inquiry or that we were wrong once we were in Opposition to be pursuing it, because frankly, Mr Speaker, I think for all of the relatives of the people who made allegations, there is a lot in there to feel uneasy about – in other words, there is a lot in there which they have found to have rightly raised issues about.

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But, the Hon. Gentleman in his hyperbole went on and said in no Western democracy could somebody get away with having said the things the Hon. the Father of the House said and still be a Minister. Well, Mr Speaker, in fact the hon. Gentleman was speaking on the basis of having sworn witness statements in his hand, he was acting entirely properly. But I have heard before in this House, this business of 'in no Western democracy'. As *Hansard* will show, it was said once before in a Budget, and I forget the exact year, but I think it was after 2007, when the hon. Gentleman, the now backbencher – in other words, the one who is now out of Government – said to the Hon. the Father of the House, 'In any other western democracy anybody who had lost four elections in a row would have to resign and leave the Parliament'.

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Mr Speaker, they used to call Bill Clinton the come-back kid and he has got nothing on the Hon. the Father of the House. Western democracy should take lessons from the way that Joe Bossano discharges his obligations to the people that he serves, namely the people of Gibraltar, whether as a Minister or as a Member of Opposition, pursuing doggedly many of the things which the Chairman of the Inquiry has actually found he was right to pursue, 'aided and abetted by Members opposite', said the hon. Gentleman trying to convert his diatribe into an indictment, because the language of aiding and abetting is the language of the criminal law used in indictments.

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Aided and abetted, Mr Speaker. Well, supported by his Party who adopted as a policy position that we should pursue this Inquiry. But does he include Unite, that for a period were actually involved in funding Joanna Hernandez' case? Does he include himself, her first lawyer, or are only those of us who remain – not have been in the past – those of us who remain Members of the GSLP Liberal Coalition to be tarnished as aiding and abetting when what we were in fact doing is supporting and ensuring that the light of day shone on those serious allegations, many of which have been found to be true?

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Mr Speaker, I think he gave a backhanded compliment to the 'GSLP political machinery', as he called it, talking about the intensity with which we pursue things and went on to say that as fathers of children we should not have wanted to be associated with the way that the GSLP pursued this matter, never mind the fact that the Inquiry, which he quotes actually finds that we were right about many of the things that we were pursuing – certainly that they should be investigated.

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But, Mr Speaker, let us look at the opposite of what he said and the hon. Gentleman does not do logic very well and that is why he sometimes does things which when they are exposed to logic can be demonstrated not to be exactly I think what he might have wanted to say. As fathers of children we should not have allowed this to happen. Well, actually, Mr Speaker, as fathers of children what all of us should want always done is that if there is the slightest shred of credible evidence, in particular sworn witness statements... not one, but many – we should all want them investigated quickly. We should not prevent investigations from being carried out.

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As fathers of children we should ensure that nobody again has to go through the political persecution that Joanna Hernandez has had to go through to have her allegations or rather the allegations made by others in support of her in the Industrial Tribunal properly investigated. As fathers of children, we are

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3215 receiving an example in the way that in another Western democracy in the United Kingdom... rumours of *potential* child abuse are being dealt with, let alone witness statements that dealt with child abuse.

3220 But, Mr Speaker, did it all end there or was there much more to this? Was there an attempt not to have this case heard, despite the witness statements? Was there an attempt to at the last minute say that the case was collapsing because Isabella Tosso could not come and that might not have been the reality? Was there in fact, Mr Speaker, actually much more going on here? Well, Mr Speaker, this did not just affect Joanna Hernandez. The *VOX* is no longer published today, as I told Members before. The *VOX* was the subject of a libel action by members of the hon. Member's family. I believe he was involved in that, despite being the Minister for Justice.

3225 Mr Speaker, I was the subject of a complaint to the Industrial Tribunal by members of the hon. Members family and I will tell him, Mr Speaker, because he likes to use the hyperbole: shameful and disgraceful. I have told him before, Mr Speaker, what was shameful and disgraceful is not that somebody asks him when he is talking about something that involves Hassans to simply declare his interest. What is shameful and disgraceful and what is pressure is to try and have somebody not declare an interest, but disbarred. To try and snooker them politically, to somehow try and avoid them becoming a political
3230 challenger, to somehow in that way make your way up the greasy pole that the hon. Gentleman makes politics in Gibraltar. To almost think of it as snakes and ladders and try and push your opponent over a precipice, Mr Speaker, which is exactly what the hon. Gentleman was doing when he was behind the attempt to have me disbarred in that way. And all of that, Mr Speaker, I might *even* forgive – I will certainly not forget, but I might even forgive.

3235 But what I will never forgive and I will not tire of reminding him of is that that complaint was not just a matter being dealt with, but it was a matter which *they* insisted should go to a case management hearing the day after my father died. Knowing that my Father had died, having been asked for an adjournment, they insisted with all of the venom with which they pursued Joanna Hernandez and me and *VOX*, that I should be there listening to the total poppycock that was coming out of their lawyer's mouth – namely Mr Rafael Benzaquen, now a member of their Executive, then receiving approximately a £250,000 a year for the work for which he had been paid £60,000 a year as a civil servant – instead of being with my family and my mother on such an important day. For that, Mr Speaker, I will never forgive them, Mr Speaker. That is disgraceful and that is shameful. And in Spanish, in the '*Espejo Publico*' language, *se le debía de caer la cara de verguenza, pero no la tiene Mr Speaker*.
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3245 *But, Mr Speaker, let us look at* what it is that we can conclude from what has been said today. What we conclude from what has been said today is that we should have actually together as a Parliament convened an Inquiry when the allegations first came to light, which was what the Opposition was asking that we should do in the questions put at the time and the debates that we had at the time. We should have allowed the Industrial Tribunal to go ahead and not wanting to do that or as an alternative, convened an inquiry.
3250 That is exactly what we did when we were elected.

Mr Speaker, we did not pick this battle, but we would never turn our backs on people who are making *serious* allegations of the sort that we were confronted with in sworn witness statements. So, Mr Speaker, there were no defamations to speak of. I have demonstrated to him that in the '*Espejo Publico*' documentary, the words actually reflect some of the things that did happen, or simply what *was* happening
3255 – namely that we were not getting answers. There is no apology to be made, certainly not in the terms that the hon. Gentleman has suggested. But an apology *should* be made, Mr Speaker. He is right to suggest it and I am going to make it. I apologise, on behalf of Her Majesty's Government of Gibraltar and on behalf of the people of Gibraltar, to all of the people who had the guts to make statements, in witness statements, *sworn* witness statements making allegations, which have subsequently been found to be true by the
3260 Inquiry, that those matters were not dealt with more expeditiously at the time, although we were not in Administration.

And given that, Mr Speaker, the hon. Gentleman's motion suggests a different sort of apology and suggests that there has been a defamation which has not happened, I am going to move an amendment to the motion, but before so doing I am just going to tell the House, Mr Speaker, that frankly I do not think
3265 anything Mr Netto said merits a reply or is worthy of a response because his philosophy has failed him again today as it always does. Mr Speaker, although I am not required to give notice in writing of an amendment to a motion, I am going to do so, because it is lengthy and I ask the hon. Clerk whether he wishes to distribute it to hon. Members opposite and to yourself.

Mr Speaker, I move that the motion be amended as follows –

3270 **Hon. D A Feetham:** Mr Speaker, I envisage that I will be making a point of order in relation to the amendment, because if the Hon. the Chief Minister is going to do with this motion what he did with the last one, I have gone back to Erskine May and it is not allowable in the rules, because in fact he does have to give notice and I am just foreshadowing that I may be making this particular point once I read his
3275 amendments, which he says are lengthy.

Hon. Chief Minister: Mr Speaker, the practice of this House continuously has been – are therefore that overrides Erskine May – that any individual can make an amendment to the motion or can move an amendment to the motion and that they do so not even having to do it writing. I am doing it in writing today, Mr Speaker, and my amendment is as follows:

‘To delete every word after the words “This House:” and add the following text: ...’

3280 as has been the case on numerous occasions, in particular under the former Leader of the GSD and myself, and under the Father of the House.’

Hon. D A Feetham: I make a point of order now and refer the House to Erskine May because I had anticipated that this is a point... Well, Mr Speaker, I am making a point of order. I can make it after he reads it or before.

Mr Speaker: Let him read it and let him look at the Rules of the House in the meantime. The Rules of *this* House.

3290 It is Part 6, Motions, right? I can tell the Hon. the Leader of the Opposition why I am doing this. I think that there are people here who have been Members of this House for many years – the longest being Mr Bossano and myself and next, Sir Peter Caruana – and on *many* occasions – (*Interjection*) I want to check the Rules, but on many occasions a Member who has made a speech on a motion has stood up and at the end of his contribution given notice of his intention to amend the motion and the amendment has been circulated and considered. (*Interjection by Hon. D A Feetham*) And that has happened since I have been Speaker. It has happened during one debate since I have been Speaker and there was no problem.

A Member: And the rules make it clear, Mr Speaker.

Hon. Chief Minister: In fact it has happened since the Parliament was the Parliament.
3300 Mr Speaker, what the hon. Gentleman has to remember is that Erskine May is there to give us guidance where our Standing Orders do not otherwise provide and Standing Order 20 says the following, Mr Speaker, explicitly:

3305 ‘Motions not’ –

Mr Speaker: Will you allow me to read it?

Hon. Chief Minister: Motions not requiring notice –

3310 **Mr Speaker:** Allow me to read it. The motions which do not require notice:

‘A motion...’

3315 Amendments thereto... I think Hon. Members should look at Rule 21, subparagraph (3):

‘Any amendment to the motion which a Member wishes to propose in accordance with the provisions of Standing Orders 23 and 24 may be moved at any time after the question upon the motion has been proposed by the Speaker and before it has been put by the Speaker at the conclusion of the debate...’

3320 That I am sure, Rule 21(3) is the Rule by which the proceedings of this House have been conducted, certainly since 1972 by various Speakers on numerous occasions when there have been not just amendments, but amendments to amendments to amendments.

3325 As I say, I have been a Member here for 20 years, Mr Bossano has been longer and Mr Caruana has been here since 1991. Maybe at a certain time when it was not that common or it was less usual to have debates of the natures that we have had today, maybe that almost fell into desuetude, but I have no doubt in my mind that it is perfectly proper for a Member speaking on a motion at the end... *at any time* during his intervention, certainly before he sits down, to give notice of the motion and having circulated it, and then that motion is to be debated.

3330 And insofar as Erskine May is concerned, Erskine May does not constitute the House of the Gibraltar Parliament. Erskine May is the bible of parliamentary procedure by which parliaments that base themselves on the Westminster pattern, guide themselves by.

Having said that, I will allow the Leader of the Opposition to say whatever he wants to.

3335 **Hon. D A Feetham:** Well, Mr Speaker, thank you very much. Normally one hears the submission or the views of those making the point of order before making a decision on the point, although, Mr Speaker appears –

Mr Speaker: I am not giving you a decision. I am giving you guidance. I do not have to...

3340 The Hon. the Leader of the Opposition, by objecting to the amendment moved by the Chief Minister... whether it was possible. I understood perfectly well what he was getting at, and as I said, because the practice and the Rules are clear, I think I have given guidance.

Now, notwithstanding that, if he wishes to challenge or if he disagrees with what I am saying, I will allow him to do so by all means.

3345 **Hon. D A Feetham:** Mr Speaker, yes, the difference is between an amendment to a motion, which is perfectly possible without notice – in other words one amends a motion, but the motion in essence remains substantively the same – and what he is doing, which is effectively substituting my motion for another motion, that is what – (*Interjection*) No, Mr Speaker.

3350 If what happens here is that there is another motion altogether, completely different to the one before the House now, he has to give notice, Mr Speaker, because what we are dealing with is a completely different motion – that is what we are dealing with. If we were dealing with an amendment of one paragraph then perhaps it would be different, but, Mr Speaker –

3355 **Mr Speaker:** That is not what has happened in this Parliament or in the House of Assembly. I regard Mr Bossano as an honourable person and he will corroborate. I am sure that it has happened to motions when he was Leader of the Opposition. He brought motions to the House, and either Sir Joshua Hassan, or I myself even or anybody would delete the *whole* of the motion, delete all the words after ‘this House’ and substitute by the following, without any prior notice being given – that happened during the course of the debate.

3360 I know what I am talking about. I know that I am supported by *Hansards* over all these years. I have a very, very good memory and in the 20 years that I was a Member, I have lived that situation on countless occasions.

Now, I would invite the hon. Member to continue but honestly –

3365 **Hon. D A Feetham:** Mr Speaker, I am not going to... It is not my practice –

3370 **Mr Speaker:** You are mistaken, honestly you are mistaken. Check with your father who has been a Member of this House and has seen that happen. Check with your father. He will tell you that you are mistaken, check with other people, check with other previous Members who were here during the days of the House of Assembly, and they will tell you. Contemporaries of Mr Bossano and myself, you can meet them in the street, you can telephone them and they will tell you. The only pity is that we do not have alive at the moment, any of the Speakers like Major Robert Peliza and Alfredo Vasquez, who were involved when that happened. But I tell you, I know what I am talking about.

3375 **Hon. D A Feetham:** Well, Mr Speaker, during the course of this evening I have had my two brothers mentioned, my father and now the Speaker also mentions my father.

Mr Speaker: No, no, just a moment, please –

3380 **Hon. D A Feetham:** Mr Speaker, may I be allowed to continue?

3385 **Mr Speaker:** I will allow you, but look I have not mentioned your father in a derogatory sense. I have mentioned him as someone with whom I shared many meetings here in the House whom I hold in very high regard and whom I consider an honourable person and a great friend of mine. So I am not saying anything derogatory about him. I think that you are going a little bit too far in misinterpreting what I am saying.

3390 We have been here since five o’clock. We have had three excellent debates. I am not being patronising – until now, until what has happened in the last 10 minutes, I want to commend all hon. Members who have taken part in three excellent debates with a lot of passion, with a lot of controversy but nothing unparliamentary has been said, and for that Members should be commended, (*Interjection*) because it is very easy... No, now we are having more controversy because it is not that I am making a ruling it is that I am telling you that you have misunderstood the Rules of this House and you do not seem to accept it. That is all.

3395 **Hon. D A Feetham:** Mr Speaker, it is not that I do not seem to accept it; I have not been allowed to get in a word in edgeways, Mr Speaker.

Mr Speaker: Well, I will allow you now as much time as you want.

3400 **Hon. D A Feetham:** Does Mr Speaker...Mr Speaker..., Mr Speaker look, Mr Speaker, I have looked at the rules indeed I am not going to mention who told me and alerted me to this, but Mr Speaker would be surprised if he is talking about authoritative people and people who have been Speakers, of the person who actually alerted me to this point. Mr Speaker, it is not something that I have invented and I have come here off my own back. I have actually been alerted to this particular point by somebody with experience of his job, Mr Speaker. I went back to Erskine May and I looked at the point and indeed, that is the procedure as I understand it.

3405 If what you are doing is effectively superseding one motion with another, fairness requires that there be notice of the motion. But look, Mr Speaker, to the extent that Mr Speaker is not with me, I have never, my practice has never been to push in court or otherwise, to push at closed doors. So what I am not going to do is push at a door that is clearly closed in my face, in terms of this particular point. And I do not want to delay the proceedings any more.

3410 If Mr Speaker thinks that the Hon. the Chief Minister can proceed with the amendment which is effectively without notice and doing away with my motion and introducing a completely new motion, at 5 to 12 – well, it was 10 minutes ago, so 20 to 12 in the evening – without any notice and that is fair and that is... Well that is fine, Mr Speaker. If Mr Speaker takes that view; I sit down and let him go ahead with the amendment to his motion.

3420 **Mr Speaker:** I am not discussing the fairness of the procedure or otherwise. What I am saying is that certainly in all the years that I have been a Member, in all the years that I have followed the proceedings of Parliament, when that has happened – and it has happened on numerous occasions – no-one has ever stood up in this House and questioned that procedure. No-one has stood up and questioned that the Speaker allowed that to happen.

Now the Hon. the Leader of the Opposition says that he has taken advice. Well look, I do not know who the advice comes from, possibly from a previous Speaker, but I am not going to make a judgement in disagreement of any previous Speaker. I am not going to do that because that I think would be wrong.

3425 I have the right as Speaker to make rulings and when rulings are made, when rulings are made, they become... that is the valid ruling, even if it were to go against what a previous Speaker may have ruled. That is the position. It happens in all Parliaments and it will continue to happen.

3430 Look, I do not particularly enjoy being... My personal preference would have been for the debate to be concluded because if an amendment is made to the motion, anybody else can now speak on the amendment and we might be here till midday. And as hon. Members will know, I do not particularly want to be here until midday on 2nd April. It is bad enough on April Fool's Day to have to be here until the present time. *(Banging on desks)*

3435 **Hon. D A Feetham:** Mr Speaker, perhaps we can get on with it, Mr Speaker and allow the Hon. the Chief Minister to go ahead with his amendments.

3440 I can only do, Mr Speaker... and in my career as a lawyer in the 22 years that I have been in practice, I have always pursued an argument and a course of action that I believe to be the correct one. I believe that the correct course of action is not to allow an amendment that effectively substitutes one motion with another, because the Rules on Notice, Mr Speaker, are there precisely to allow for fairness, because what you are doing effectively is giving notice to the other side that you intend to bring a motion. I understand when there is an amendment to one paragraph, but substituting one motion with another without notice does not appear to me to be the right course of action.

3445 But I accept Mr Speaker's ruling and all we want to do now is to get on with the Hon. the Chief Minister's amendment and then with my reply to both the Father of the House and the Leader of the House.

3450 **Mr Speaker:** Let me say for the record, that my ruling is based on the practice of previous Speaker of this House of Assembly and of this Parliament. I am not departing from any... It is what I have seen done and that is what I have guided myself by. In my view, the greatest Speaker that this Parliament had was the Hon. Alfred Vasquez and during the 18 years that he was Speaker, that must have happened on umpteen occasions.

Hon. Chief Minister: Mr Speaker, just speaking on the Point of Order, it is very clear that Standing Order 20 envisages exactly this sort of thing happening, as every Chief Minister, as every Member who has wanted to move substantive amendments which have removed all of the text of a previous motion have done in the past. The Hon. the now backbencher has done it, the Hon. the Father of the House has done it, I

3455 dare say in your time you will have done it, as you have confirmed. The position is very clear. Standing Order 20 says that motions not requiring notice include the motion by way of amendments to another motion being debated in the Parliament.

3460 And, Mr Speaker, the reference further in clause 21 is of *any* amendment. So if the rules in the United Kingdom are different, then they are different, Mr Speaker. I do not know who to thank for allowing me to get on, because the hon. Gentleman seems to have forgiven me my life by saying let us allow the Chief Minister to get on. It seems that he has given up very quickly. He does not have the tenacity that he says he has, Mr Speaker, in my view but anyway I thank you or him or whoever it is that I should, for allowing me to continue with the procedure that has been pursued in this House since the first day it met as a City Council.

3465 Mr Speaker, this is fast becoming from "*aqui no se cena*" to "*aqui se va a desayuna y nos vamos a comer los caracoles*", if we carry on like this. (*Laughter*) But the hon. Gentleman has obviously become in fact very, very nervous indeed about the amendment I am about to move. And I can understand that because he does not like to be treated like everybody else has always been treated, he believes there should be a Feetham rule for everything. Well there is not, Mr Speaker, and I therefore move that we should delete every word after the words 'This House:' and add the following new text:

3470

'This House:

WELCOMES that the Government has fulfilled its commitment to review and investigate allegations of abuse at the Dr Giraldi Home;

RECALLS that the terms of reference of the report, established under the Commissions of Inquiry Act by the Chief Minister were as follows:

1. To inquire into:

(a) allegations of mismanagement, misconduct and malpractice (including abuse) at the Dr Giraldi Home contained in witness statements intended to be relied on by Ms Joanna Hernandez in connection with her claim of unfair dismissal by the Social Services Agency; and

(b) the conduct of the relevant authorities and agencies in response to, or otherwise in relation to, such allegations.

2. To inquire into such other matters relating to the Dr Giraldi Home as the Chairman of the Inquiry shall, in his absolute discretion, consider appropriate.

3. To find the relevant facts.

4. To report on the above.

NOTES that the report has confirmed that there were instances of mismanagement, misconduct and malpractice (including abuse) at the Dr Giraldi Home, although in the judgement of the Chairman these were at a "lower level";

REGRETS the failure of the GSD administration to conduct an independent public inquiry into the allegations of deficiencies in the treatment of persons in the Dr Giraldi Home at a time when numerous individuals and organisations in Gibraltar including the then Opposition were asking for it;

CONSIDERS that the position of the present Government in having proceeded with the Inquiry was in the public interest and fully vindicated;

NOTES that the reasoning advanced by the previous GSD administration for their withdrawal of their defence of the case, namely that they were allegedly unable to locate their allegedly "star witness", Ms Isabella Tosso, previously the Chief Executive Officer of the then Social Services Agency (without whose evidence they said they could not proceed), have been demonstrated by the Inquiry to be entirely false, and which excuses THE HOUSE RESOLVES were blatantly hollow and designed to avoid a full hearing of the Industrial Tribunal case to ensure that the allegations made in the Witness Statements referred to in the terms of reference never saw the light of day;

NOTES that had the spurious and purely technical defence succeeded, the consequence would have been to greatly reduce the level of protection against unfair dismissal afforded to workers in Gibraltar since 1974;

CONDEMNS the previous GSD administration for their attempt to re-interpret employment legislation with spurious and technical arguments, notwithstanding the advice that there was virtually no prospect of success;

COMMENDS the Government for having commissioned the inquiry and publishing the report in full

AND NOW CALLS UPON the Government to go further and publish the transcripts of the hearing also in full on the Government's website.'

And I think, Mr Speaker there is a typographical error in the motion which should read, in the first 'NOTES' paragraph, just under paragraph 4:

3475 'NOTES that the report has confirmed that there were instances of mismanagement, misconduct and malpractice...'

and it should say there in brackets ‘(including abuse)’ which is what the Report says, including abuse, at the Dr Giraldi Home, which is exactly Mr Speaker, as you will note – and I am now speaking on the amendment – was the first conclusion of Chairman Parker, Mr Speaker, which I referred you to a few moments ago, but to which surprisingly Joanna Hernandez’ first lawyer had not referred you to which was this, where he said, Mr Speaker:

My general conclusions are as follows:

1. There were some instances of mismanagement, misconduct and malpractice (including abuse) at the Home...’

That is page 667 of the Inquiry Report, Mr Speaker, so we have been very faithful to the findings of the Rt. Hon. Sir Jonathan Parker QC, the Chairman of the Inquiry in drafting this motion. And we are therefore proposing to the House that it should adopt a motion, not in the shorthand terms that the Hon. the Leader of the Opposition obviously wrote his, when he thought he remembered what the *Espejo Publico* report had contained, when he might have thought that it contained defamations when in fact it contained things which the Inquiry has demonstrated were true; when he might have thought of that Gibraltarian politicians went to Spain when in fact they did not go to Spain, they were interviewed here; when he might have thought that they said things which were defamatory, when all they said was exactly what they were saying here, namely that they had been seeking that the matters be dealt with and they could not understand why.

All of that, Mr Speaker, means that this motion actually properly and accurately reflects the position, and the self-serving motion which the hon. Member brought and has been pursuing for some time now, is simply designed to try and garner some public support for him and his party which is not otherwise really rallying in any way.

And so, Mr Speaker, speaking now on the amendment, I would commend the Bill as amended, to the House – (*Interjections*) sorry, I would commend the motion as amended to the House and will now allow others to speak on the amendment at your discretion.

Mr Speaker: The question which I am now required to propose is that the amendment be made – that this very lengthy amendment be made – and hon. Members may speak on the amendment.

Hon. Sir P R Caruana: I have been provoked to rise to my feet again –

Hon. Chief Minister: You are so easily provoked.

Hon. Sir P R Caruana: Well...only by the truth and falsehoods.

Mr Speaker, look, it is not just because it is an ungodly hour of the day for the House, for you know 19 grown up men and women to be conducting proceedings of this sort, not just for that reason am I actually quite indifferent about the content of this particular amended motion.

I am also indifferent to it because the Government is going to use political majority to secure the passage of whatever it wants for political effect, they will all vote for it, and one thing is clear and everyone listening to this debate will know, is that the Government’s political majority does not define truth.

And because the Government’s political majority does not define truth, they have a pen, they have a piece of paper in blank, they have the majority of votes in this House and therefore they can write on the piece of paper entirely what they please and that is what reflects my level of interest in what is said on this piece of paper.

But having said that and recognising that in a sense that which I have described has always been so in the case of political majorities and political minorities, and recognising that in the past I have used political majorities to pass motions that I wanted passed and to defeat motions that I wanted defeated, I like to think that at least when I was amending motions, I may have been expressing value judgements and opinions and assessments with which my political opponents disagreed, but I have never consciously written on a piece of paper, to have it delivered by my political majority, a statement of fact which is self-evidently *false*.

Mr Speaker, the paragraph at the bottom of the first page, which the Hon. the Chief Minister describes as properly and accurately reflecting the position, is self-evidently *false*. It is as true as saying that the planet is a cube and not a sphere. But of course, they have the political majority to pass in this House a piece of paper that says that the planet is a cube if that is what they want to do, but no-one is going to believe that the planet is a cube, simply because they use their political majority to pass it.

Look, Mr Speaker, this House notes that the reasoning advanced by the previous GSD Administration for their withdrawal of their defence of the case, namely that they were allegedly unable to locate their allegedly star witness Ms Isabella Tosso, previously the Chief Executive Officer of the then Social Services Agency without whose evidence they said they could not proceed – and the next words of key – *have been demonstrated by the Inquiry to be entirely false*.

Mr Speaker, Mr Justice Parker has found, declared and stated, precisely the opposite of that on that very question. So far from the Inquiry having demonstrated that the reasoning advanced by the GSD

Administration and its justification for the delays were false, he has found that they were true, that they accepted the reasons for it and they had nothing to do with delay. Now of course, the hon. Member can invent and fabricate this statement of fact and get his allegedly independent thinkers, who are not subject to any whipping, all coincidentally to come to the same conclusion that Lord Justice Parker said the opposite of what he said.

He can do that, but he should not delude himself into thinking that he can re-write the findings of Lord Justice Parker on this point. Look, Mr Speaker, the hon. Member, I am sure, when he wrote this paragraph, he may have had in mind the finding of Lord Justice Parker about the lady whose name I now forget about having the e-mails with the loves and kisses at the bottom, and he may have in mind when he wrote this paragraph, the fact that there was an employee in the authority who, contrary to what the Government knew or thought, was actually incapable of being in contact with her.

But the hon. Member is not entitled to attribute that knowledge of that e-mail address and that contactability to the GSD previous administration. Still less to use that misattribution of whatever may or may not have been known to Ms Gomez to me, to then reverse what Lord Justice Parker has in black and white said on this very issue.

Now, Mr Speaker, I am now going to sit down and I will wait here politely until this House votes on this motion – but with the statement that if this House passes this amended motion in these terms, it will be noting something which hon. Members know is not true. It is not true that Lord Justice Parker found this.

Mr Speaker: Does any other hon. Member wish to speak on the amendment?

The Hon. Mr Bossano.

Hon. J J Bossano: I will address the point that has been made by the hon. the backbencher in due course in what I am going to be saying.

Can I just say, before I start on what I had planned to say, Mr Speaker, that when he started philosophy, the hon. Member opposite clearly did not study Machiavelli because I assumed if he had read anything, he read *The Prince* because it is the only one that is translated into English really, and not the whole of the works, which I did. And I can tell him that nothing that he attributes to Machiavelli was ever said by Machiavelli in *Il Principe* or in any other of his writings.

The essence of the concept of being Machiavellian which has entered into the English language, was because Machiavelli advised the employer that he had who was the Prince of the particular independent republic where he lived, that as an approach to dealing with people who had been his enemies, that if you have a wounded enemy you either convert him into a friend or you finish him off.

Now that might appeal to some people or it might not! I can think of at least one person in this room that I think it would appeal to, and it is on me (*Laughter*) who used to polish off enemies and never leave them alive to come back another day! (*Laughter*) But I am not going to amend the motion to include that. (*Laughter and interjections*)

So to get back to the amendment, I am speaking in fact on the part of the amendment that deals with the condemnation of the administration for their attempts to reinterpret employment legislation, which of course is not factually in doubt. I mean they did attempt to reinterpret it and whether one should congratulate them or condemn them is what I am going to see if I can persuade Members opposite of.

First I think I owe to the Leader of the Opposition, Mr Speaker, a need to express my gratitude to him because he has given me, by bringing the motion in the first place, the opportunity to put in the public domain and on the record of the Parliament, the issues that I would have been able to air had the hearing of the Industrial Tribunal had proceeded or if I had had the opportunity of addressing this issue in full before the Inquiry.

As has been mentioned, the original termination of employment or the indication of the termination of employment of the manager of the home was contested by the Leader of the Opposition. Yes, the Leader of the Opposition challenged that decision as the lawyer of Joanna Hernandez and the letter –

Hon. D A Feetham: Mr Speaker, is he now speaking on the amendment or is he now responding to me on my – ?

Hon. J J Bossano: No, no, I am speaking on the condemnation of the decision to attempt to reinterpret employment legislation and in order to go through the wrongful actions of the previous administration, I have to start by explaining the sequence of events which start with him. That is to say when he started off in October 2005 he was opposing the dismissal and saying it was unfair, even independent of any consideration of this esoteric invention that came along later of the 53-week year, to which I will address myself later on.

Originally what the hon. Member opposite, the Leader of the Opposition was arguing was that in fact the termination was procedurally wrong and unfair, irrespective of anything else and he argued, in fact

3600 something that Mark Isola was also arguing when he took over the case in the advice he was giving the Government.

We start off with a situation where the hon. Member was involved initially in October and the position that he took up to the point when the Chief Executive Officer, on 24th October, wrote a letter saying:

3605 ‘Probation and confirmation of appointment.
I am writing to inform you that your performance in your position as a manager of the Dr Giraldi Home has been reviewed and it is the conclusion of the Social Services Agency’

– not my conclusion; the *Agency’s* conclusion –

3610 ‘that you have failed to meet the required standard.’

3615 Not true! Not true because in fact what the Government said subsequently was that she was a star witness because she took the decision on her own and without consulting anybody else. Now I do not know whether that was legitimate for her to do but she claimed that it was not her decision. She claimed in writing to the person concerned, ‘it is the conclusion of the Social Services Agency’ and that suggests it is the conclusion of more than one. Indeed it suggests that it would have been something that had gone up to the Minister and up to the board level of the Agency. Because we are being told that we cannot hold the Government responsible for what Marie Gomez does. Well look, Isabella Tosso holds the Social Services Agency responsible for what she did.

3620 But of course, at the time, the position of the hon. Member was to reject this. He said:

3625 ‘It is clear that Ms Hernandez has been treated unfairly in the procedure followed for her dismissal given the timing of the letters and the lack of reasons supplied.
Given the circumstances, we have come to form the view that this unfair treatment towards Ms Hernandez has come about because of the investigations that Ms Hernandez has been carrying out into aspects of running the Dr Giraldi Home and the complaints made against senior members of the staff. It appears that the Agency has chosen, instead of dealing with the problems voiced by Ms Hernandez, to avoid matters and turn them against her. This victimisation is clearly unwarranted, given that Ms Hernandez was merely dealing with numerous complaints raised by staff under her management.’

3630 Excuse me, Mr Speaker, is this signed Joe Bossano? No, it is signed Danny Feetham. (*Laughter*) I cannot believe this. Should I condemn the Member opposite?

Hon. Chief Minister: No, publish it, publish it!

3635 **Hon. J J Bossano:** Do I say this is hypocrisy and double standards? Is he guilty when he does it or innocent; and I am guilty when I do it three years after him? (**A Member:** Shame!) This is the letter signed by the hon. Member on 14th November 2005, and he says that he has come to the conclusion that the reason why Ms Hernandez is being victimised is for *whistle blowing* on the complaints of all the members of the staff! (*Banging on desks*) But wait a minute, did she not fabricate these things? (*Interjection*)

3640 Well I agree with him, he is right. He was right then but he is wrong now, because I was saying that then and I am saying it today, and that is the difference. He is no longer GSLP so he does not say the same things two years later.

3645 When he said that, he was defending exactly the same thing that we have been defending all the time. And if indeed he believed what he was saying when he signed it and he believed that the Agency had chosen instead of dealing with the problems voiced by Ms Hernandez to avoid matters and turn them against her, then in fact he must believe as we do, that this was a case of victimisation for whistle blowing.

3650 Unfortunately, at the time, the victimisation of an individual for whistle blowing was not included in Gibraltar, although it had been in the United Kingdom since 1998, as an area which required no minimum level of service. If this had happened in the United Kingdom, the case would have been heard immediately, because under the United Kingdom, if you are exercising what is a duty which is to report what you genuinely believe to be wrongdoing, you cannot get sacked because it is less than 52 weeks or 53 weeks or any other number of weeks. You can have been working one hour and you are protected against unfair dismissal.

3655 But unfortunately the GSD in 2005 had not attempted to bring the laws of Gibraltar up to the standard of the United Kingdom of 1998, which they should have done when they came in after 1996. So instead of being a progressive administration that protected workers that were whistle blowing, they took advantage of the fact that they were a regressive administration and, as he clearly pointed out to them, they went on to victimise Ms Hernandez and to compound the felony – (*Interjection*) Mr Speaker, to compound the felony by first of all, the first argument as I tried to explain to Chairman – not now – Parker, I tried to explain this to the Chairman but you will not find it there.

3660 The first argument which was put, which was at the time when the case was transferred from my colleague to me, which was the first time by the way, that I met this lady and he had known her for any

more years than I had, and held her in high regard. I was only given the responsibility for handling this for a very simple reason, which was the reason that I explained to the Tribunal when I said I had reason to believe that pressure had been put on the Union.

Mr Speaker, following this exchange, there was a letter signed by my colleague informing the Union that he had now received the files from the hon. Member opposite, and that was four days after this on 29th November. And the Union had a policy in place where before they gave legal support they had to have an evaluation which required that the lawyer was able to recommend that the case should proceed on the basis that he considered that there was more than a 50/50 chance of winning it.

The evaluation done by Hassans came back saying the chance of winning it is over 70% and the Union, having first said you have to do the evaluation, then said we cannot finance it because the evaluation has been too expensive. Well look, it is totally insane if the policy were that first of all you require that somebody does an evaluation, if the evaluation comes out under 50% you do not get the support of the Union, and if it comes out over 50% you do not get the support of the Union because the evaluation has been too expensive. Well then, you would not get the support of the Union ever.

But of course you get it all the time, because this is the one and only case when it has happened, never before and never since. So we start from the very beginning with singularities as if we were in outer space. (*Laughter*) A singular attempt to silence somebody, a singular interpretation of the support from the Union and the indications from the Union were that continuing to provide finance to defend this case would mean that it would be seen as a hostile act by the administration. So in fact the regime at the time was similar to the one of our neighbour, where if you are nice to the Gibraltarians, then that is seen as a hostile act by the Junta in Madrid. Therefore the Junta in No. 6 Convent Place behaved in the same way and they said, 'If you support somebody that is going to go against me, then we will bear that in mind.'

Of course, I could not produce the evidence because if the evidence that is required to convince the inquiry is that somebody has got to admit to that, then it will never be possible to produce the evidence. But I can tell the House what kind of evidence there is, and the kind of evidence there is, is that having said they could not continue to support her, they called me up and asked me to take on the case for free. I took on the case at the request of the Union, not at the request of Joanna Hernandez who did not know me and I did not know her. It was the Union that sent her to me and said, 'Look, we cannot do it because this is going to affect us in our relationship with the Government, if we are financing a case against the Government which is controversial. Therefore, can you take it on?'

In the past, I have normally taken on cases given to me by the Union, not because the Union said they would not finance it, but because the lawyer had said to the Union, it did not stand more than a 50/50% chance of winning – and I won them all, even though it was less than 50%. So when the Union said if it is a lost case, send it to Joe Bossano and if it is not a lost case, will let some lawyer make money. That was really what it amounted to – ok. (**A Member:** *Esta bien eso.*) Yes, well... I suppose (*Laughter*)

So from that time on, Mr Speaker, I want to take the House through the sequence of events which justifies the condemnation in the amendment of the way this was handled by the Government. Having started with the Tribunal, the first thing that happened was that the Attorney General's Chambers contested the case on the grounds of jurisdiction. That is to say they sent a letter back to the Tribunal saying there is no jurisdiction to hear this case because it does not meet the requirement. And they argued initially – I cannot understand how they did but they did argue initially – the absurd proposition that the requirements of the law were not being met because notice had been given in October and therefore the termination of the contract was on the day that the notice was given and not on the day the notice expired. So they argued initially that the employment had lasted 11 months.

The law is absolutely clear. The law says in the Employment Act of Gibraltar, that the termination of employment happens on the date the notice expires, not on the date the notice is given. And on that basis, that argument was shot down at the first hurdle.

The next step therefore was, that the Attorney General's Chambers were told to hand over the case to a private lawyer and it was initially – I have just found out as a result of the Inquiry – being offered to Mr Dumas and then because he was not available, it was offered to Mark Isola. And Mark Isola was asked to find another reason for challenging the jurisdiction because the original reason did not work. And he came up with this concept that there was case law in the United Kingdom to justify what was being done. Well this is a disgraceful attempt by the GSD Government which no trade unionist sitting in their ranks should be able to defend or live with.

Here we have a situation where the Government of Gibraltar that has been in power since 1996 turns round and says to its lawyer, 'Find me a reason for stopping the hearing', and the lawyer has got a job to do which is a tough job. He said, 'Look, this is going to be very difficult, the chances of getting away with this are minimal,' That is in the correspondence and this goes all the way to the Chief Minister who was the one insisting on it.

He came up with some ridiculous argument that it was something to do with a Gregorian calendar and that there used to be lunar calendars before and not afterwards. All this was done in public because the

3725 arguments were so ridiculous that I made the point of ringing everybody up in the press to come and listen to this. This was a real circus. (*Laughter*) Then he produces one case, Pearson in Scotland and Pearson in Scotland had ruled by a majority of two to one, that somebody was not able to meet the test of jurisdiction at the time when Scotland had a requirement for 26 weeks.

3730 The argument of Mr Isola was because of this case in Scotland that did not meet the 26 weeks, we should apply that to the 52 weeks. But the case in Scotland was that they were trying to argue that the week should count whether it was seven days or just one day. In fact, in the Pearson case, which was from the 1970s, the argument of the claimant was that although he had worked 25 weeks and two days, the two days which were a part week, should count as a full week and that was lost because it did not meet the six weeks. It had nothing to do with starting on Sunday or finishing on Saturday. It was about whether on a consecutive basis, there were enough days to say it was 26 multiplied by 7 and the answer was, it was not.

3735 This is then converted into an argument that in the United Kingdom there is a definition of ‘week’ and a definition of ‘year’ and a definition of ‘month’ but in Gibraltar there is not. So the Government of Gibraltar comes along and says, ‘We have got a problem because the law was changed in 1974 in the UK’ and I say, ‘What law?’ Well they cannot produce what law. They say, ‘Well look, there are plenty of examples in the UK’. I said, ‘Cite them.’ They can only cite Pearson in Scotland.

3740 I said, ‘Well look, in Gibraltar we have had this law since 1974. (*Interjection by Hon. D A Feetham*) Mr Speaker, it was your law.

Hon. Chief Minister: I am not surprised – you have realised what you have let yourself in for.

3745 **Hon. J J Bossano:** It was your law and when you brought it to the House following a question that I put to you, you said in the House in 1974, that you were going to protect people against unfair dismissal if they worked two years, which was what had been done initially in the United Kingdom and you argued with me, that – I do not know whether you remember it, but I do? (*Interjection*) You do, good! Then you told me that although you were doing it for two years, when I tried to persuade you not to do it for two years and to do it for one, you said, okay look, what we will do is, we will put in two years and if in 12 months’ time you come back and you demonstrate that there has not been an avalanche of complaints which has choked the system, then I agree that we will amend the law and reduce it to one year. That is precisely what happened and in 1975 you reduced it to one year.

3750 That is to say you said in Parliament, ‘I am going to make it one year’ but the regulation that came out published by the draftsman, did not say one year; it said 52 weeks. And the regulation in 1974 did not say two years; it said 104 weeks. And now we have somebody coming along 13 years later, saying that the law was unclear. Well wait a minute, the law that everybody has been abiding by for 30 years, unclear? So I said let us go back to the *Hansard*, let us find what was the intention of Parliament.

3760 Was it the intention of Parliament that you were protected if you worked one year and the year happened to be 53 weeks long? Well then, that would never happen. There are no years. There are leap years which have got one more day, but there is never a year that has got 53 weeks.

3765 However, if 1st January is a Sunday and 31st December is a Saturday, then that year counts because that is a year of 52 weeks beginning on Sunday and ending on Saturday. It is that level of absurdity that was used which the Chairman of the Tribunal said, ‘Well look, I have never had this before, there is no evidence that anybody has argued this before, but fine, I do not think this is fair and I am ruling that it should not be used.’

3770 And what does the Government do? The Government says ‘We are going to appeal to the Supreme Court.’ Now the Supreme Court at the time still had Chief Justice Schofield. They had not bundled him off yet, so I suppose that helped to introduce some common sense into the appeal. I was not able to go to the appeal because you have to be a lawyer to be able to do that. (*Laughter*) Yes. My colleague Gilbert was the one that took the case to the appeal and although he went very well prepared, in fact the Chief Justice said to him, ‘You do not even need to say anything to convince me. This is so ridiculous an argument that I am telling you now I am throwing it out.’ (**A Member:** Hear, hear.) (*Banging on desks*)

3775 And all that we need to say, how could *anybody* with any background of defending workers argue that there could be a system where you get a letter that says, ‘You are here for one year’s probation’, you start on Monday, I then sack you in the 52nd week and I am telling you that although it is a year, it is not 52 weeks because I commenced your contract on the Monday and in order for you to have 52 weeks, I should have commenced your contract on a Sunday?

3780 And they do this to an employee that was already in the public sector in the Education Department on the Friday! So she finishes on the Friday and she is sacked on the Monday and she started work on the Sunday and that is the basis of the Government’s argument for saying there is no jurisdiction and they filed this case in the Tribunal, in the Supreme Court and in the Appeal Court. And this is not a plot to stop the Tribunal hearing. No, this is – they tell the Tribunal, the Inquiry – to clear up the confusion that there might be about what the law says.

3785 So the Chairman says to me, ‘Well would you agree that it is necessary to clear up the uncertainty about what the law means?’ Well there is no uncertainty. I mean the law is clear, it has been clear for years. They then produced as an argument, that they have consulted a QC in the United Kingdom and the QC in the United Kingdom has told them it is not impossible to win. Well of course it is not impossible to win. It would be a miracle if you won, and miracles presumably sometimes happen, or the guy has fallen asleep and has not heard the arguments and gives the wrong decision. So it is not *impossible* to win but it is *highly unlikely*. But if there is doubt that needs to be cleared up, then the Government may want to test it so that the law is clear for the future.

3790 Well of course, the guy that is giving the advice, the QC in the United Kingdom, a Mr Barr. (Interjection) Yes, Mr Barr – I do not know who he is – says, ‘If the Government feels there is a need not to win the case, not to stop the allegations, not to stop... if the reason for wanting to do it is that there is uncertainty about the meaning of the law, then although in all probability what the result will be is that it is 52 weeks made up of seven consecutive days, which is how everybody has been doing it since the year dot, if you think there is uncertainty and you want to be clear of the uncertainty, then by all means.’

3795 The only justification that the QC gave, according to the evidence in the Inquiry – which I did not know before – was that he justified it as a very long shot, but justified by the need to clear uncertainty. And then, when Chairman Parker said to me, ‘After hearing this, do you change your mind?’ I said, ‘No, I do not change my mind. I am more convinced now than before I heard it.’ Because if the QC has been told the reason we want to go ahead is to clear uncertainty, then the QC has been misled in the brief that he has had from the Government, because no uncertainty has ever existed and because the lawyer they contracted, Mark Isola, was constantly telling them, ‘You are going to lose this. You are going to lose this, stop wasting money. Either let’s reach an agreement and settle, let’s offer a settlement, or let us have the hearing.’

3800 Now having delayed the system by doing this, allegedly not for any deliberate motive, just I suppose because the former Chief Minister told the court ‘Why did you do it? – ‘Oh well, because I just felt like having another shot, you know what I mean? Just for kicks with the Taxpayer’s money.’ (Laughter) Well I can tell the hon. Member that when he had the first kick, which was going to the Appeal Court here, I took the matter to the Union and here I have got, in February 2007, the letter written by the District Officer, Charlie Sisarello, to Fergus Whitty, the Head of the Legal Services in the UK:

3815 ‘Thank you for your letter and helpful advice. We have no doubt,’ says the Union, ‘that the Government’s lawyers are wrong and that they know it.’

This is not the *Tupamaros* in the GSLP. This is Charlie Sisarello, highly regarded by the Government at least at some point. He was sent to Coventry for a number of years and then they brought him back into the fold.

3820 So the Union says we have no doubt that the Government’s lawyers are wrong and they know it. So it is not that they had doubts, they know they are wrong and they are deliberately stopping the Tribunal from taking place.

3825 The legal firm, the Union says, is the legal practice of the father-in-law of the Chief Minister, Mr Caruana. Horrendous language mentioning the father-in-law. I mean do not mention fathers or cousins or brothers. (Laughter)

‘They have been instructed by the Government to appeal. The case was originally in the hands of the Attorney General and was briefed out to Triay & Triay, and we believe this to have been a political decision.

3830 The law in Gibraltar does not require one year’s continuous employment but 52 weeks. The argument used by Triay in the Tribunal was that whereas the law in Gibraltar gives the definition of a year and a month which is the same as in the UK, it does not define a week.

3835 He argued that in 1974 UK employment law defined a week – not true – as a seven day period from Sunday until Saturday – not true. And that by virtue of this definition the 52 weeks of continuous employment had to be counted commencing on Sundays and ending on Saturdays. This means that someone whose contract of employment started on a Monday would not count the first week and if the employment terminated on Friday would not count the last week, so the guy has got to do 54 weeks in order to have 52.

3840 ‘Joe Bossano won the argument in the tribunal for one of our members but cannot appear before the Supreme Court.’

– it is not because I am *persona non grata*; it is because I have to have a legal qualification –
‘and if we do not contest the appeal it could be lost.’

3845 The fear was that the appeal uncontested might be lost and there would be serious consequences, not just for this individual but for the entire workforce and that is why the amendment condemns the Government, and that is why all the nasty things that the mover of the motion said he should now be saying about the decision to delay and the decision to attempt to re-interpret the law of Gibraltar from the way you

3850 introduced it, Mr Speaker, from the way that every single lawyer has operated it for 35 years and from the way that the hon. Member opposite was advising Joanna Hernandez of her rights when he was her lawyer. So how can he defend the opposite of the advice he gave her when he ceased to be her lawyer?

The Union told the Head Office:

3855 'We believe the whole strategy is to try to delay the case being heard until after the General Elections.'

3860 Is there political motivation here? Is this a conspiracy? The Chairman of the Tribunal says there is no evidence. Would this constitute evidence? Well no, if he does not believe me, why should he believe Charlie Sisarello? If they called Charlie Sisarello back from retirement would he still say what he said when he signed this? I do not know, but I can tell the hon. Member one thing: I did not make this up. The Union says:

'Our member was employed in the Civil Service for over five years, finished work on Saturday and started to work on Monday in the Giraldi Home. The appointment was subject to one year probation',

3865 and the Union had a pending claim for continuity of employment, given that the Social Services Agency is part of the Government public service and half of the staff are civil servants. The Union had a claim for continuity, even on that ground alone. What are you talking about, one year and 52 weeks? This is *year six*.

3870 'Our member received reports of cases of abuse of the persons in care and reported this to the Chief Executive and copies of the reports were sent to the Minister.'

The Union is saying all this.

3875 'The act of whistle blowing we believe was the real reason why it was claimed that she had failed to meet the standard required in the probation year.'

3880 So now the Union agrees with the Leader of the Opposition and with me, because that is what I was saying then and this is what I am saying now, and I am being castigated for saying what he subscribed to and the Union subscribed to.

'Well over a year ago her employment was terminated from November 2005 and we are still fighting to have the case heard',

says the Union.

3885 'We have a long list of witnesses with sworn statements...'

Were those the ones you fabricated, or did I fabricate them, or did the Union not know they were fabricated?

3890 '... long list of witnesses with sworn statements both as to the high standard of our member's performance and as to the complaints of abuse of disabled children and others within the service.'

3895 The approach to the Government or the lawyers that you suggest... because the Head Office said 'Why don't you try and talk to the employer to see if we can find a settlement rather than fight it in court and having to go to an appeal and spend a lot of money?'

3900 'The approach to the Government or the lawyers that you suggest is pointless, since the Government is willing to spend whatever it takes to prevent the facts coming out. I will send you the transcripts of the argument used in the Tribunal as soon as they are available',

so that they would frame it as a unique event in legal history, dealing with the Gregorian calendar and the 54-week year.

3905 'I enclose the ruling made by the Chairman and the notes taken by Joe Bossano of the statements made by the lawyers. Local lawyers are confident that the application can be won and presumably should be able to get costs awarded but we need the appeal.'

3910 The Union needed the appeal not just because it was grossly unfair, what they were doing to the member, but because it meant that what the Government was prepared to do, as their lawyer Mark Isola told them in the documents that are now public, was take the risk that if they won, which was considered to be *highly unlikely*, if they won, immediately after winning they would then have to come back and legislate to make sure that they did not deprive everybody else coming after this particular case from their rights to unfair dismissal.

3915 So here we have got evidence that there is no fabrication, evidence that there are real statements, evidence that it is not a GSLP... or is it that we had the T&G in our pocket in 2007? The year 2007 was driven by the 2007 election date, that is why there was this importance.

The Supreme Court ruled in favour and we were awarded costs and therefore as far as the Union was concerned that is what happened.

3920 When the Government said that they were now going to go one step further and take it to the Court of Appeal, the Union at that stage said, 'Look, Head Office thinks that...', given that their own analysis was that the Government is willing to go to the House of Lords if need be and spend whatever it takes to stop it happening, the Union was told they would call it a day.

3925 Well, Mr Speaker, even at the start on 25th October when the Leader of the Opposition was representing the manager that had been told she would be terminated in a month's time, the Minister Yvette del Agua was given a letter by the parents of the users saying the following:

3930 'It is with much regret that we have learned that the Social Services Agency will not be renewing the contract of Joanna Hernandez as current manager of the Giraldi Home. The families of the users of the home have therefore decided to show their support and condemn the decision not to renew her contract. We find her a very dedicated professional and qualified person and are very concerned that this is the fourth manager in a row of the Dr Giraldi Home that has been replaced in as many years.'

3935 This wonderful house that the hon. Member opposite, Mr Netto, has told us of the quality of the place – well look, they sacked managers every year. They brought one manager in and he lasted one year and then he went. Four years, four managers and it was always the fault of the manager; never the fault of the Minister.

'We believe that they had inherent problems within the service and these problems have caused the loss of several professional dedicated members of staff over the last few years. With this in mind we wish to publicly voice a call for an independent inspection into the local residential services by the Care Standards Commission from the UK.'

3940 This is at the beginning, when the hon. Member opposite was representing her, before anybody in the GSLP had called for anything. Before the termination had taken place, the Government – because this is the Government... This letter is to the Government. Did the Government say, 'Well look, let us take a step back.' After all, these are the parents asking us now. This is not the Opposition, the Opposition was not involved. Why not go to the Care Standards Commission in the UK or is it that you only go to UK to download their stuff, copy/paste it and claim it is yours? That is the degree to which you are interested in the UK.

3945 Well, I can tell you, Mr Speaker that in terms of what has been done, the evidence before us is that there is justification for what the amendment says. Because the other element that has been mentioned which is the element of the access of the Government to Isabella Tosso is something that I can also demolish. Not only is there a situation where in October 2007, the letter from Isabella Tosso to Marie Gomez was 'my dear, dear friend, I am writing this – no wonder you have been feeling as you have.' This was because Marie Gomez here was saying what a rough time she was having with Wilson who had been put in charge.

3950 And, she says, 'I cannot wait to see you on Saturday, when I can give you the hug that I am sending you now.' On Saturday in *Cadiz*. She was supposed to be in New Zealand! That is what they told me in the Tribunal, 'We cannot get hold of Isabella Tosso because she has told her she may not be in Europe at all, she may be in New Zealand and we think she is in New Zealand.'

3955 But look, wait a minute, your manager – the one that replaced her in the Tribunal, the person that was going to be giving the evidence, their second star witness... They decided the star witness could not be found because she was supposed to be in New Zealand, but she was in fact in Cadiz, was going to be replaced by Marie Gomez and Marie Gomez was going to be delivering the devastating blow that would prove that all the witness statements were all false, that here we had a lot of people who were all going to be committing perjury and that the manager was useless.

3960 And Marie Gomez forgot to tell anybody until these e-mails appeared in the Tribunal, forgot to tell anybody that she was going to go to Cadiz to meet Isabella Tosso, and Mark Isola was telling me in the Tribunal that she was in New Zealand.

3965 Well, there was a postponement while we waited for her to come back from New Zealand and eventually, after the postponement, the next step was to argue that she could not be contacted and when they said that she could not be contacted, they said it would carry on first with the new manager and then they changed their mind and they said Marie Gomez would be delivering the case for the Government.

3970 The day we sat down – because we actually sat down to start – and the day Marie Gomez was supposed to make the opening speech to meet the burden of proof, Mr Isola told the Chairman that the Government had decided that the burden of proof could not be met by the contribution of Marie Gomez and that instead what they were doing was saying they could not produce the evidence that would show that the dismissal had been fair. I said I wanted to carry on and the Chairman said I could not. I said, 'But I know where she is, I can tell you where she is, all you need to do is Google Isabella Tosso, and since there is a register of workers in the United Kingdom – because I have done it – they will tell you her telephone number and her number.'

3980 Now look, I may not have, Mr Speaker, evidence that could win a conviction in a court of law. Courts of laws are mysterious places that I do not understand, and the guys that wear wigs and sit in them I understand even less. But I can tell the Members Opposite that if they genuinely believed what they said at the beginning, I hope that they have stopped believing it by now.

3985 And let me tell the hon. Member one final thing. At the beginning of the saga, when the letter was sent telling her ‘your contract may not be renewed’ in September, the letter from Isabella Tosso said, ‘Your contract may not be renewed.’ The Tribunal was told that the letter had said, ‘Your contract *will not* be renewed.’ That was a lie. It said *may* and *may* means if you improve the performance, it may not happen.

But it was worse than that. It was worse than that because the letter said, ‘I have consulted the Labour Inspectors and they have told me I can go ahead and not renew your contract.’

3990 And when I got this, because I asked for discovery, and the evidence from the correspondence between the lawyer and the agency shows – and the hon. Member opposite, Mr Netto was the recipient of some of this correspondence – shows that the advice that he was getting was, that you are going to lose this because on procedural grounds you have lost it, as indeed the Leader of the Opposition had identified on day one, and even if it is not on procedural grounds, you are on very sticky ground, you had better find a way of solving this.

3995 Well look, there are two options that they chose not to do for which there is no explanation. They chose not to attempt to reach an agreed reconciliation, no attempt was made to do that and secondly no attempt was made to say, ‘Well look, if you are genuine in your concern, let’s have the investigation in a way that is transparent and the people can be satisfied. But what happened, from the beginning, from the beginning, there are lies because when I get into the picture and I get that letter saying the Labour Inspector had been consulted, I knew they were lying. I knew they were lying because I had been dealing with these things all my life.

4000 Labour Inspectors do not give advice to employers on how to sack people. Labour Inspectors listen to the people who are sacked and advise them.

4005 So I insisted on the evidence and eventually when all the appeals had been exhausted, which was three years after the termination of employment, Mark Isola accepted that I had a right to discovery and sent a letter to the Director, Ernesto Gracia and he said:

4010 ‘We have been instructed by the Agency to write to you inquiring as to whether any of the Labour Inspectors at the Employment Service has any recollection of Isabella Tosso, the Chief Executive, making an inquiry or otherwise in September 2005 concerning a member of our staff, one Joanna Hernandez and in particular, whether you have any record of it.’

The answer is no. The Labour Department writes back and says no:

4015 ‘I can confirm that none of the Labour Inspectors has any recollection of ever having spoken to Isabella Tosso, the Chief Executive.’

From the beginning they were lying and they have been lying throughout – and it is not just me that says it, it is the Union that says it and it is the parents of the users that say it.

4020 Therefore, Mr Speaker, I commend the amendment to the House because what it says is accurate. (**A Member:** Hear, hear.) and if Chairman Parker says there is no foundation in my thinking, there is a conspiracy to prevent the truth coming out or to prevent the proper protection being given to workers, and if any Government goes to the lengths of putting at risk the protection that has been there for 30 years for 20,000 people for the sake of one case, look there is something there that does not make sense.

4025 There is an absence of logic in this that does not make sense and I have to say well, if somebody is saying that there is no foundation in anything that I am saying, here is the foundation and I will be judged by the electorate, by the people who put me in this House and not by the Chairman of an Inquiry.

A Member: Hear, hear. (*Banging on desks*)

Mr Speaker: Order!

4030 Does any other hon. Member wish to speak on the amendment?

Then I will call upon the Chief Minister to reply, if he wishes to do so.

Hon. Chief Minister: Mr Speaker, thank you very much.

4035 I do have to deal, I think – despite the late hour – with the issue that the hon. the backbencher raised. He is not here to hear me respond, but he raised an issue before he left.

Mr Speaker, the hon. the backbencher talked about us simply using our political majority to pass a motion that did not reflect reality. Mr Speaker, for all the reasons that the Hon. the Father of the House has demonstrated that is not what the amendment reflects. But there is one particular aspect of that which I want to deal with specifically because the Hon. Mr Caruana has referred us to the words ‘have been

4040 demonstrated by the inquiry to be entirely false’, and followed up with saying, ‘but Sir Jonathan Parker did not find that, Sir Jonathan Parker did not say that, so you are going to make the motion say something that you are saying the Inquiry found, which Sir Jonathan Parker did not say.’

4045 Of course, Mr Speaker, that is why the motion does not say ‘as demonstrated by the finding of Sir Jonathan Parker’. It says ‘as demonstrated by the Inquiry.’ Because, Mr Speaker, and he was absolutely right when he said that this is what I would refer him to, the evidence of Marie Gomez as it is headed – part of the evidence of Marie Gomez on pages 656 to 657 – deals with this issue and the Inquiry makes a finding that Ms Gomez was misleading in the answers that she gave about that subject and she was in fact in touch with Isabella Tosso. The Hon. the Father of the House has gone through that in greater detail than I need to go through the rest of the House with that, because he showed us the business of her being said to be in
4050 New Zealand, but actually being in Cadiz etc, which demonstrates just how lacking in candour the Government was in the way that it was dealing with this matter.

But the important thing is that the motion specifically does not say ‘the finding of Chairman Parker’, but it actually says, ‘been demonstrated by the Inquiry to be entirely false’. And there was a reason for that because in that way the motion is absolutely right. Not because we are going to say that the planet is a cube, when it is a circle or a sphere, but because, Mr Speaker, this is a Rubik’s Cube that the hon. the
4055 backbencher is responsible for having muddled up and we are ensuring that each of the colours will show only on one face.

Mr Speaker, the only other person to speak on the amendment was the Father of the House. I have to tell him, although he does not like to hear positive things about him, he would rather hear something negative so he can come back and attack, that is him all over, but he has demonstrated tonight in the speech that he has given now why it is such an honour and a privilege to serve with him, Mr Speaker. He has been able not to just extract from the findings of the Inquiry and the documents before the Inquiry, the facts which are salient and which are important that the public should understand, but even more important than that, in a way that even the most uninitiated will understand, he has demonstrated the duality and the duplicity for which the Hon. the Leader of the Opposition is becoming known. And he has demolished, at the same time as he has completely dismantled, all the reasoning behind the original motion and in that way, lent credence to the need to move the amendment in the way that it is drafted, because he has shown, what I sometimes say, in a way that is going to be instructive to whoever wants to understand how to demolish a political
4060 opponent.

4070 He has demonstrated that the hon. Gentleman opposite flip-flops from one position to another, but he made the cardinal mistake, Mr Speaker, of putting a motion dealing with a matter that Joe Bossano was dealing with, which is totally contrary to a letter that he signed 10 years ago. And, Mr Speaker, I dare say it is that amnesia again. He wrote the motion Mr Speaker, forgetting that actually he had written the letter. And Joe Bossano, Mr Speaker, was more than just masterful. I think he has demonstrated that whether he likes it or not, he has more than just the qualities to be admitted as a member of the Bar in Gibraltar, (**Several Members:** Hear, hear!) (*Banging on desks*) not as a junior, (*Interjection and laughter*) (**A Member:** Hear hear.) not as a junior counsellor, Mr Speaker, not even as a QC, but as the Hon. Mr Netto said of Mr Caruana a few moments ago, as a QC QC. (*Laughter and banging on desks*) Because his speech this afternoon, this evening, tonight, Mr Speaker, has been a veritable *tour de force*, Mr Speaker – a veritable *tour de force* that will be read by future generations of Gibraltarians as an example of logic and how to pursue a duplicitous opponent and demonstrate just how his duplicity has affected the attempt to mislead the House that we have seen with this motion.

4080 Mr Speaker, there is one point that I think the hon. Gentleman has not mentioned which came to me as he said that in fact the hon. Gentleman Opposite, the Leader of the Opposition, had known Joanna Hernandez for much longer than the Father of the House, when she is now described as a GSLP activist, that our machinery would have done anything to protect. Well, Mr Speaker, I remembered that it is not just that the hon. Member was her first lawyer, something which he did not want to remind us of, but he had signed that letter which in fact accorded with the theory of the case that was subsequently advanced by all, which he did not want to remind us of, but that he says she is a GSLP activist. Joanna Hernandez, the GSLP
4085 activist.

But I think it is also important to remind the House, Mr Speaker, because the hon. Gentleman has not done so, that in the 2003 General Election campaign, the hon. Member’s Labour banner did not hang from Water Gardens, Mr Speaker; it hung from the Bahia Bar that belongs to the Joanna Hernandez family and she was then a Daniel Feetham activist, a Labour Party activist – the one he could not take with him when he did the deal with the GSD, Mr Speaker! So much for being honest about the statements that one makes!
4095

And, Mr Speaker, therefore his credibility is in tatters and metaphorically, politically naked before us, having cut of all his robes with his own pen with which he signed the letter in 2005, Mr Speaker, it is absolutely right that the House should – not because we have a Government majority, but because having heard the arguments so eloquently put by the Father of the House – should support the amendment to the
4100 motion.

4105 But, Mr Speaker, if he thought that we wanted to bury the debate on this motion, as he has said before, the fact is that having heard what he has heard from the Father of the House, he must be hoping that we were able to bury the debate on the motion and not see how he has been buried by the logic of the Father of the House because we would have wanted everybody in Gibraltar who is going to make up their minds about how they are going to vote, to hear the demolition that has occurred tonight, and from what I am seeing on social media, Mr Speaker, they have.

4110 So we were right to adjourn until now, because people have been able to tune in, they have been able to watch and they have been able to understand the difficult issues, clearly and simply explained by the Father of the House, and I am minded, Mr Speaker, once the House approves this motion – and I do commend it for approval in the amended terms – although I will not move an amendment to the amendment now, because of the late hour, the Government, Mr Speaker, I commit will not just publish and ensure that it is published widely the text of the amendment motion, we will also publish Mr Feetham’s original letter of advice with it, together with the transcripts of the hearing so that people can see evidence demonstrated – that word he likes so much – of his duplicity simply by comparing his first letter on the subject to Joanna Hernandez with the motion that he moved today.

4115 I commend the motion in the amended terms to the House. *(Banging on desks)*

Mr Speaker: I now put the amendment. Those in favour?

4120 **Hon. Chief Minister:** May I call a division, Mr Speaker, of the amendment?

Hon. D A Feetham: Mr Speaker, I have to respond to the original –

4125 **Mr Speaker:** I will explain, we are going to vote on the amendment and then I will explain clearly what the position is. Is a division required?

Hon. Chief Minister: Yes, Mr Speaker, in particular because a person has spoken on this amendment and then left, and I want that referred to in the Minutes.

4130 **Mr Speaker:** Very well.

A division was called for and voting resulted as follows:

FOR

The Hon. P J Balban
The Hon. J J Bossano
The Hon. Dr J E Cortes
The Hon. N F Costa
The Hon. A J Isola
The Hon. G H Licudi
The Hon. S E Linares
The Hon. F R Picardo
The Hon. Miss S J Sacramento

AGAINST

The Hon. D J Bossino
The Hon. D A Feetham
The Hon. S M Figueras
The Hon. J J Netto
The Hon. E J Reyes

ABSENT

The Hon. Dr J J Garcia
The Hon. Sir P R Caruana KCMG QC
The Hon. Mrs I M Ellul-Hammond

Mr Speaker: There are three Members absent. The amendment is carried by 9 votes to 5.

I will explain what the position is now. This is now the amended motion before the House. On the Government side, the Hon. Mr Bossano cannot speak on it, neither can the Hon. the Chief Minister. All the other Ministers can speak on this amended motion if they so wish.

4135 On the Opposition side, the Hon. Sir Peter Caruana, who is not here at the moment, he cannot speak on it. Neither can the Hon. Mr Netto speak on it because he has spoken on the motion and this is now the motion before the House.

In any case, at the end of it all, whether any other Members take part in the debate or not, the Hon. the Leader of the Opposition is able to exercise his right to reply.

4140 So do any other Members wish to speak on this, which is now the amended motion before the House? If not, I will call upon the original mover of the motion, the Hon. the Leader of the Opposition to reply.

The Hon. the Leader of the Opposition.

4145 **Hon. D A Feetham:** Mr Speaker, talk about smokescreens, contradictions and duality when we have just been treated, Mr Speaker, over the course of, I make it four hours **(Mr Speaker: Correct.) (Laughter)** Yes, thank you, Mr Speaker thank you.

Mr Speaker: Four hours and ten minutes.

4150 **Hon. D A Feetham:** Four hours and ten minutes of the largest smokescreen, contradiction and duality that this Parliament has ever witnessed in the two speeches by the Hon. the Leader of the House and the Father of the House.

Mr Speaker, before I look at those smokescreens, those contradictions and that duality, multiple duality in the speeches delivered by the Hon. the Chief Minister and the Father of the House, let me deal with what are very substantial inaccuracies, Mr Speaker, and misrepresentations, made to this House. In particular by the Hon. the Leader of the House and the Chief Minister Mr Picardo, about my role in the Hernandez case and indeed why it was that I stopped acting for Ms Hernandez.

4160 He made a number of comments and the first one was 'he stopped acting for Ms Hernandez because he did the merger with the GSD and that was the reason and what he did was left, right, left, right and effectively flip flopped and ditched Ms Hernandez because of the merger.' Well, Mr Speaker let me read from an interview that Ms Hernandez gave to the *Panorama Newspaper* on 13th February 2009 – not my words, Ms Hernandez' words.

She said this:

4165 'At the end of a year and two days, I was dismissed and Mr Feetham offered to take the case to the Industrial Tribunal'.

That is what she says.

4170 'But I felt it would be problematical for him since he was the chairman of the executive committee of the party in Government.'

So it was Ms Hernandez, not me – not me, Mr Speaker; Ms Hernandez – who had turned round to me and said, 'I do not feel comfortable with you taking the case because you are the chairman of the party in Government.'

4175 Mr Speaker, my professional duties, which I take extremely seriously, to my clients oblige me to put the interest of my clients before any political interest, Mr Speaker and there is absolutely no question, had I been continuing to act for Ms Hernandez that I would have continued to act for her, Mr Speaker.

4180 Now, Mr Speaker, just turning at this stage – and I will come back to other misrepresentations made by the hon. Gentleman – but the hon. the Chief Minister has to accept responsibility for the accuracy of the statements that he makes before this House. What he cannot say is he ditched Ms Hernandez because he did the merger, when Ms Hernandez herself, in an interview says quite the opposite. I did not; I wanted to take the case forward.

4185 But, Mr Speaker, the Hon. Mr Bossano, just tying it in with this before I go on to consider other misrepresentations made by the Leader of the House, he said that I had been right from day one. Well actually I was right from day one in relation to Ms Hernandez' case. Because the position that I took from day one was that the right procedure had not been taken in relation to her dismissal and that was... Well, he is divulging the advice that I provided and no doubt he has consent from Ms Hernandez for disclosing privilege in that regard, that is what he has done, so I accept that is the position. That is absolutely right. That was my position from the very beginning and indeed that proved to be the correct position right at the very end, Mr Speaker.

4190 And indeed, the hon. Gentleman may not know this, but probably Mr Bossano does know this, that the reason why Ms Hernandez was ultimately successful was actually because of the tactics that I deployed in this particular case in the beginning. (*Interjection*) Absolutely, absolutely and let me explain why! (*Interjections*) Let me explain why –

4195 **Mr Speaker:** Order!

4200 **Hon. D A Feetham:** Let me explain why, Mr Speaker, let me explain why. Because in fact the tactics deployed from the very beginning were to delay, delay until after she had served 12 months in the employment of the agency which is precisely what happened, Mr Speaker. So actually, it was because of the tactics that I deployed in the case that Ms Hernandez ultimately won.

Now, Mr Speaker, there is a *huge distinction*, a huge distinction, between a lawyer that is defending her client and effectively defends her client to the best of their ability and on instructions, does x, y and z, and a political campaign that was mounted by the hon. Gentleman opposite Mr Speaker, that is the difference.

4205 I do not condemn either Mr Picardo, the Hon. the Chief Minister. I do not condemn the Father of the House for representing Ms Hernandez. What I condemn them for, Mr Speaker, is for actually using this particular case as a crusade for political purposes in order to undermine the Social Services Agency, in order to undermine the Dr Girdi Home and in order to undermine the Government of the day. That is something that I would never have done because I refuse to cross that line between acting for somebody and giving legal advice and legal representation, and effectively using that individual as a political pawn which is what has happened in this particular case, Mr Speaker.

And that is the point that I made and therefore to the extent that he thinks in his own mind, in his own Walter Mitty mind, Mr Speaker, that some letter that I wrote in October of 2005 is some knockout blow, he is completely and utterly mistaken, because I was acting as a lawyer, Mr Speaker. The problem here is that they have transgressed the boundaries between legal representation and making a political pawn and a political tool out of this particular case and indeed out of Ms Hernandez.

But returning to the misrepresentations made by the Hon. the Chief Minister during the course of his own intervention. Mr Speaker, he said that I had made a complaint to the Bar Council in order to get him disbarred. Mr Speaker, what world does he live in? Where is the evidence of any complaint that I have made against the hon. Gentleman to the Bar Council or the Admissions and Disciplinary Committee to get him disbarred? Neither have I made a complaint against him, either the day before his father died and I am really sorry about that, or indeed have I represented anybody in the making of that complaint, Mr Speaker.

But look, yes, my brother made a complaint against the hon. Gentleman. He made a complaint against the hon. Gentleman because at a time when Hassans was acting against the *VOX* newspaper, the editor of the *VOX* at the time came out during the course of those defamation proceedings saying that the hon. Gentleman had provided advice to the *VOX* newspaper, and he was a partner of Hassans.

In other words, Mr Speaker, my brother was being represented in defamation proceedings against the *VOX* by Hassans and the hon. Gentleman who was a partner in Hassans was advising the *VOX* newspaper, the defendants in that same case. So talk about conflicts of interest and talk about acting against the interest of your client, Mr Speaker! (*Interjections*)

Mr Speaker, and he has the audacity to refer to a letter that I wrote acting in my capacity as a lawyer, Mr Speaker, when he was providing advice to the defendants, to the opponents –

Hon. Chief Minister: Mr Speaker, a Point of Order.

Mr Speaker, the Point of Order is very simple. He has said I was providing advice. Mr Speaker, that is not the case, the complaint was made –

Hon. D A Feetham: That is not a Point of Order.

Hon. Chief Minister: Yes it is, Mr Speaker, because it relates to facts which the hon. Gentleman is asserting. I did not provide the advice. The Admissions and Disciplinary Committee dismissed the complaint – (*Interjection by the Hon. D A Feetham*) Yes it did, you had better check your records – dismissed the complaint, Mr Speaker, and he therefore needs to make himself responsible for what he is saying in this House.

The way that he is describing everything is entirely untrue, Mr Speaker, and if necessary I will move a motion to the effect that he has misled the House *again*. He has to make himself responsible for what he is saying in this House. He has to look at what I said and defend what I said and not what he says I said, and go back and look up those files, because *I have today*, Mr Speaker, and what he is saying is untrue.

Mr Speaker: I am sorry, but that is not a Point of Order.

Hon. Chief Minister: I have gone on, but the original Point of Order, Mr Speaker, is that it is wrong for him to say that I was representing those people contrary to my obligations, and in fact the complaint that was made was dismissed. I have then gone on, but that is the Point of Order.

Hon. D A Feetham: Mr Speaker, the reality of the situation was that my brother took proceedings against... and he has brought my brother into this session today, not me. He is the one who has mentioned my brother and he has brought him in. He is not here to defend himself so I have to correct – (*Interjections*) I have to, Mr Speaker, I have to correct, I have to correct, I have to correct the record which he wrongly set.

Mr Speaker, my brother took proceedings in defamation against the *VOX* newspaper and the Editor of the *VOX* newspaper in writing said, that the hon. Member opposite, the Chief Minister had advised him as Editor of the *VOX*. That was the evidence that was provided in the content of the defamation action, Mr Speaker. He can bring whatever motion he wants to bring, Mr Speaker – that is what happened, Mr Speaker.

And let me tell him another thing, that the reason why that complaint by my brother to the Admissions and Disciplinary Committee was dismissed – I think it was withdrawn – is because my brother actually extended the hand of friendship, the hand of friendship that he has spat on today, Mr Speaker, during the course of his intervention and *withdrew it*, Mr Speaker. He withdrew the complaint against the hon. Gentleman because quite frankly he was a partner of Hassans, my brother Nigel was a partner of Hassans and everybody wanted to move on. He extended the hand of friendship and Mr Speaker, he has spat upon it today, Mr Speaker.

But what I will not allow, Mr Speaker, is for him to misrepresent the record.

But, Mr Speaker, let me return to the smokescreens, contradictions and duality. And look, I have also received a text from my brother Nigel, relating to interceptions of communications, but I am not going to go there. (*Interjection*) I really don't. No, because I do not. I don't. I don't want to go there but I am going to proceed to talk about smokescreens, contradictions and dualities, Mr Speaker.

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Mr Speaker, the Hon. the Father of the House said what political advantage could there be in wanting to get to the truth by conducting an Inquiry? That is what he said. And then, Mr Speaker, in the same speech, he took almost an hour, Mr Speaker, mocking and making a mockery of the very Inquiry he sought and indeed orchestrated! He says we wanted to get to the truth, Mr Speaker, that is why we conducted the inquiry and then when the Inquiry produces results that they are not happy with, he then spends an hour making an absolute mockery of the Inquiry that they themselves instigated.

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Mr Speaker, and making too a mockery of Sir Jonathan Parker, who they have during the course of tonight, both the Father of the House and indeed the Hon. the Chief Minister who has followed the lead of the Father of the House, referred to him really disrespectfully, as Chairman Mao and Chairman Parker. Mr Speaker, *they appointed* Jonathan Parker, one of the most eminent lawyers of his time, and I have to say that I was thoroughly disgusted with the way that they have sought to denigrate an eminent judge, Mr Speaker, and also an eminent judge in the conduct of an Inquiry that they themselves instigated.

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And Mr Speaker, when the Hon. the Father of the House was speaking in response to my motion, I had made a note to ask the Chief Minister to apologise on behalf of the Father of the House, for the comments that he had made about Sir Jonathan Parker and indeed about the Inquiry itself. Because really what he was saying is yes, there was this Inquiry but really it was either a biased inquiry or it did not do its job properly, it has come to a wrong conclusion, it did not listen to me and it should have listened to me and it should have concluded that it was all a big conspiracy on the part of the GSD Government.

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Mr Speaker, I was going to ask him to apologise on behalf of the Father of the House, but the Hon. the Chief Minister started his intervention by saying, 'I want to congratulate the Father of the House, on his passionate and masterful intervention. His forensic analysis was superb.' So, Mr Speaker, here we have the Chief Minister of Gibraltar, who calls an Inquiry, who asks Sir Jonathan Parker to head that Inquiry and then, during the course of this Parliamentary debate, proceeds to absolutely trash Sir Jonathan Parker's conclusions and Sir Jonathan's conduct of the Inquiry.

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Well, Mr Speaker, I have to say that if there is any contradiction and duality, it is in the conduct of the hon. Gentlemen and the way that they have sought to proceed today. And let me remind, Mr Speaker, and the Hon. the Leader of the House, what he actually said when the Report was first published – and we will then see, Mr Speaker, who is contradicting himself and where the duality lies, Mr Speaker.

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When the Report was received he said this:

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'I am very grateful to the Rt. Hon. Sir Jonathan Parker for this exhaustive and comprehensive report into the various allegations of malpractice at the Dr Giraldi Home which concerned the Government greatly and which led to the establishment by me of this Inquiry.'

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So he is congratulating Sir Jonathan Parker for the exhaustive and comprehensive report. He then says:

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'In the very short time available to me since I received the Report, I have noted *with satisfaction* that the Report concludes that any instances of mismanagement, misconduct and malpractice at the home were infrequent and at the lower end of the scale of what this type of behaviour. That was the issue that most concerned my Government.'

So going from appointing Sir Jonathan Parker, from congratulating Sir Jonathan Parker for his very exhaustive and comprehensive report and from saying he is really glad that all those nasty allegations of misconduct, all the ones that I outlined in my intervention of sexual abuse and all the rest of it, the torture etc, so glad that none of that, that none of that was proved, unfounded and he was also glad that really what was found was true, or found by the Tribunal, was malpractice at the lower end of the scale.

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Well, Mr Speaker, that certainly does not justify the systematic trashing of this Report that has taken place over three or four hours by the Members opposite. In particular, the Father of the House, but of course now, aided and abetted – a phrase that he does not like me to use but that is precisely what has happened – by the Hon. the Leader of the House and Chief Minister.

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Mr Speaker, talking about dualities, the Hon. the Father of the House said that 'If a Spanish journalist comes here, I do not have to go there', he says. 'I did not go; I did not go to Spain to give an interview on a Spanish TV programme. The Spanish producers of the programme came to me.'

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Mr Speaker, I do not know what kind of a defence he was setting up but even he in his warped reality of what is damaging to Gibraltar or is not damaging to Gibraltar would have realised, Mr Speaker, that any interview that he gave here in Gibraltar was going to be shown in a programme in Spain. Or did he really think, Mr Speaker, that the producers of the *Espejo Publico* were going to come to Gibraltar to interview the hon. Gentleman but then not air his comments in a programme in Spain, Mr Speaker? What a poor excuse! What a poor excuse!

4335 But, Mr Speaker, he then in defence of the comments that he made in the *Espejo Publico*, he said, ‘Well actually what the *Espejo Publico* was saying was absolutely true.’ That is what he said, repeated by the Hon. the Chief Minister. The *Espejo Publico* said that there was fear of the administration, that there was fear of the GSD and therefore that is why these allegations were not... people were not coming out with these allegations publicly.

4340 And he also said that the allegations... certainly one of the allegations was true, but indeed in his comment that there was a cover up here in Gibraltar, Mr Speaker, what he is doing or does he not realise that what he is doing, is giving vent to the allegations? He is giving credibility to the allegations, Mr Speaker.

4345 So what has happened is that instead of apologising for comments that he has made to the *Espejo Publico* which were not true, Mr Speaker, because the Inquiry has found that the allegations were unfounded, what he has done, yet again, Mr Speaker, is give vent to those allegations, give credibility to those allegations, by actually saying, well, the allegations were true and there was a climate of fear in Gibraltar and that is why people did not want to come out publicly and say so, but he was brave enough to say so.

4350 Well, Mr Speaker, it is a shameful episode. It is a shameful episode for him, Mr Speaker – he who fancies himself, Mr Speaker, as a defender of Gibraltar and a defender of Gibraltar against anything that is Spanish. For him in particular to have given an interview on Spanish television – because that is what it was, an interview on Spanish television – effectively denigrating staff and the institution that is the Dr Giraldi Home was shameful to say the least, Mr Speaker.

4355 But, Mr Speaker, –

Hon. J J Bossano: Mr Speaker, I want to raise a Point of Order.

4360 **Hon. D A Feetham:** Mr Speaker, I hope that Mr Speaker is alert that these Points of Order do not turn into replies.

Hon. J J Bossano: Mr Speaker, the hon. Member opposite has accused me of saying something to the guy that came to interview me which is not what I said. I have read the sentence and the sentence says ‘If the Government says that these are all made up, why doesn’t he go ahead and do the investigation?’

4365 The only thing I said to the Spanish interviewer is, this is what I have asked them in Parliament. That is all I have said. I have not said the allegations are true and I have not accused anybody of anything, and I have read it to him.

4370 **Mr Speaker:** Let me make one thing clear to hon. Members. To rise on a Point of Order, to correct, to answer something that has been said, that is not a Point of Order. (*Interjection by Hon. J J Bossano*) That is not a Point of Order.

There is a rule about clarification which hon. Members should look at, but that is not a Point of Order. There has been no transgression of the Standing Orders by anything that the Leader of the Opposition has said.

4375 Now, what the Hon. Mr Bossano is trying to do is to reply to what... Well look, (*Interjection*) he can ask, the Leader of the Opposition would he give way, and that is the correct procedure.

4380 **Hon. J J Bossano:** No, no, no. No, I am rising on a Point of Order because the hon. Member opposite has attributed words to me which I have not uttered, in the knowledge that I have already given him the text, the transcript. I have read out to him what I have said and he is quoting me as saying something that is not true. That is a Point of Order because Members are supposed to be able to prove that what they are saying is true and he cannot, because I have got the transcript and he has not.

4385 **Hon. D A Feetham:** Well, Mr Speaker, I have sat here very patiently listening to a lot of allegations being thrown my way, a lot of points being thrown my way, and I have sat here very patiently –

Mr Speaker: May I quote the Rule. I direct the attention of hon. Members to Rule 45(8):

4390 ‘A member who has spoken to a question proposed to the Parliament may again be heard, if the Speaker so permits, to explain some part of his speech which has been misunderstood; but when so speaking he shall not introduce any new matter.’

Some part which has been misunderstood.

Other than that, the correct procedure is to ask the person holding the floor to give way.

4395 **Hon. D A Feetham:** Mr Speaker, I have not misunderstood what he has said. I have not misunderstood what he has said at all. Mr Speaker, he tries to re-characterise and to re-describe to his own benefit, what he

said in that programme. But, Mr Speaker, he has just now proved it. He has said that what he said was if the allegation is not true, why doesn't the Government investigate it?

4400 Mr Speaker, but does he not realise that by saying 'If the allegation is not true why doesn't the Government investigate it?', then he is actually giving vent to the allegations, he is adding credibility to the allegations, Mr Speaker? (*Interjection*) Of course you are, Mr Speaker. If the hon. Gentleman says... and look, you know I have to say that one of the biggest respects that I have always held him in high esteem on this if nothing else, that he has always stood up and said, 'This is what I said, this is what I meant', and he has not cared.

4405 But Mr Speaker, now what he is doing is he is ducking and diving, ducking and diving Mr Speaker, with the best of lawyers! Ducking and diving with the best of us, Mr Speaker, because really what he is reminding me of is a young lawyer in front of a tribunal where the judge says, 'Well hang on a minute, but you have not said, you have said this,' and he says, 'Well no, because of this and that and the other.'

4410 Mr Speaker, he says if the allegation is not true, why doesn't the Government investigate it? Well look, what he is really saying to everybody that cares to listen to the programme is: 'I think that the allegations are true and that is why the Government is not investigating it.'

Mr Speaker, that is the reality, and that is the point that I make and it is a perfectly legitimate point for me to make, Mr Speaker. That is my interpretation of what he has said.

Now, Mr Speaker –

4415 **Mr Speaker:** No, the actual text goes much further, of course, than what the Leader of the Opposition has said.

Hon. D A Feetham: Yes.

4420 **Mr Speaker:** The actual text in Spanish – shall I read it out? Would he like me to read it out in English, I will translate?

Hon. D A Feetham: No, I do not.

4425 **Mr Speaker:** Well it goes further than what the Leader of the Opposition has said just now. The point that Mr Bossano read out goes further than what he... you are paraphrasing it. You are paraphrasing it.

4430 **Hon. D A Feetham:** No, Mr Speaker. I have just repeated back his paraphrasing of that. He has stood up, in fact he has agreed with me across the floor of the House. His paraphrasing, he said yes that is what I said. What he has said is in paraphrase – this is what he said – if the allegation is not true, why doesn't the Government investigate it? That is what he has said, Mr Speaker.

4435 And what I am saying is, absolutely, that is exactly how I understood it! That is giving vent to the allegations. Why, because really what he is saying is, 'I believe those allegations are true. What is happening here is that the Government is seeking to hide, to suppress truthful allegations.' That is a reasonable interpretation to his words, Mr Speaker. And what I am saying is that he is ducking and diving with the best of lawyers, Mr Speaker – the breed that he holds in such low esteem.

4440 But, Mr Speaker, he then also said, 'Well, have an independent investigation, put your money where your mouth is and investigate.' But does he understand, Mr Speaker, and have I not been able to take him to the relevant passages from the report of Sir Jonathan Parker, that says precisely that? He accepts that we did, or the GSD Government and the Social Services Agency did actually investigate these allegations. The ones that were serious were investigated. The RGP investigated the allegations and the Attorney General also, Mr Speaker, concluded at least on some of the more serious allegations that there was no case to answer, Mr Speaker.

4445 Now, the problem here, the problem here is not that we refused to go to an independent or launch into an independent inquiry. The problem here is that the Gentlemen opposite were not prepared to accept the word of the Social Services Agency that said that they had investigated the allegations, the words of the Royal Gibraltar Police that said that they had investigated the allegations and the word of the Attorney General, not to speak of the backbencher when he was Chief Minister of Gibraltar, Mr Speaker. Of course there was an investigation and Sir Jonathan Parker, Mr Speaker, accepts that there was an investigation.

Mr Speaker, the Hon. the Father of the House also said that this was Joanna Hernandez on her own. This was Joanna Hernandez on her own against everybody else. Well actually no, it was not Joanna Hernandez on her own; it was Joanna Hernandez with Members Opposite, Mr Speaker, in the political campaign and the intense political campaign that I described during the course of my intervention.

4455 Mr Speaker, then he spoke about whistle blowers, Mr Speaker, and whistle blowers' legislation. Well, Mr Speaker, talking about whistle blowers and heeding the calls of whistle blowers, where is the investigation about the 35 trainees against Joanna Hernandez, which was an investigation – ?

Mr Speaker: That is new material. You are introducing new material now you are not allowed to do so when you exercise your right to reply.

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Hon. D A Feetham: Mr Speaker, he then also said that Joanna Hernandez was not here to defend herself. Well, Mr Speaker, neither have been the individuals that he has spoken about, including members of my family today, two members of my family – in fact three members of my family. Two brothers and a father that have been mentioned here today and –

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Mr Speaker: May I ask the Hon. the Leader of the Opposition from a personal point of view, is he still sore about what I said about his father?

Hon. D A Feetham: Mr Speaker, I am not responding to the Hon. Speaker.

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Mr Speaker: You are responding to me because I was the one –

Hon. D A Feetham: No, no, I am responding to them.

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Mr Speaker: No, no they did not.

Hon. D A Feetham: Yes, they did! They did, Mr Speaker, they mentioned my father.

Mr Speaker: Well, okay fine.

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Hon. D A Feetham: Mr Speaker, I am not sore! Mr Speaker, believe me that I have, after many years of being in politics, the hide the thickness of a rhinoceros, Mr Speaker. (*Laughter*) I have to say that, I have to say that. Partly – it has to be said, Mr Speaker, during my early years – not now that I can defend myself in this House – partly the political beatings that the Hon. the Father of the House gave me all those years ago that has made me develop a very thick skin – nothing to do with Mr Speaker.

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What we have is a situation where they – and this is the hypocrisy, the contradictions and duality, Mr Speaker – on the one hand, they say that Joanna Hernandez is not here to defend herself but of course my father, whom they mentioned, the Hon. the Chief Minister mentioned him from a sedentary position, well he is here to defend himself. My brother Nigel, oh he is here to defend himself. My brother Michael, oh he is here to defend himself. Well, Mr Speaker, let us have an element of consistency Mr Speaker. Of consistency.

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There is another point that I was very surprised that the hon. Gentleman made, Mr Speaker, because he even went as far as mentioning one of the service users by name – (**A Member:** Yes.) *by name*, Mr Speaker, in this House. My understanding of the Rules of the House, Mr Speaker, is that one should not mention people by name who are not here in this House. (**A Member:** Yes.) Well he has not only mentioned – (*Interjection*) Well, Mr Speaker, Joanna Hernandez is part of the motion. What does a service user – (*Laughter*) What does a service user, Mr Speaker, have to do with this? How on earth does he justify, Mr Speaker, a resident of the Dr Giraldi Home being mentioned by name during the course of his own intervention?

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I did not stand up and raise a Point of Order, nobody cut the Hon. the Father of the House short, but I thought it was absolutely scandalous that he should do so.

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Mr Speaker, the Hon. the Father of the House also mentions that my brother Nigel and my brother Michael that they closed down the *VOX*. Oh my God, that is so terrible – terrible, that beacon of democracy! The *VOX* being closed down by the two Feetham brothers. Well, Mr Speaker, what he does not tell this House is that my brother Michael had to sue the *VOX* for defamation and that there is an order of the court, an order of the Supreme Court – and I hope that he accepts that and that we do not have criticisms of the Supreme Court in exactly the same way as we have had criticisms of Sir Jonathan Parker and his report – there is an order of the court actually holding the *VOX* and certain individuals guilty of defamation, Mr Speaker.

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Well look, if they have been guilty of defamation, is the hon. Gentleman entitled, Mr Speaker, after there has been a case in the Supreme Court of which an individual, who is not here to defend himself, has been found to be defamed, is he entitled, Mr Speaker, to then go behind the order of defamation and say ‘Oh, because this is a witness statement and that and that and the other.’ Nobody intervened, nobody said ‘Well hang on a minute, I think that you are out of order.’ No, nobody intervened, but Mr Speaker, he *was* out of order. He *was* out of order because I have certainly never come across a situation Mr Speaker, where a private citizen takes a newspaper and certain other individuals, making allegations to court, there is an order of the Supreme Court in favour of the claimant, saying yes you have been defamed, and the hon. Members of Parliament come to this House and basically start using parliamentary privilege, Mr Speaker,

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4520 parliamentary privilege, to try and raise again the allegations which a court has found to be defamatory. Well, let him make those allegations outside this House, Mr Speaker, and let us see what actions my brothers take against him, Mr Speaker. Well he can do it, but do not do it, do not do it, because it is cowardly, Mr Speaker.

Hon. Chief Minister: A Point of Order Mr Speaker.

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Hon. D A Feetham: Mr Speaker, it is now, it's the third one.

Hon. Chief Minister: Yes. Alleged. It is in breach of the Rules of the House to challenge somebody to say something outside the House, because it is a breach of the privileges to challenge somebody to say something outside of the House.

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Mr Speaker: The Chief Minister is correct, and I can vouch for that because that precisely happened to me when I was sitting there and the Hon. Speaker, Major Robert Peliza ruled in my favour, exactly the same. You cannot challenge a Member to... It is a breach of privilege to challenge a Member to say something outside. There is a ruling from Mr Speaker Peliza in that respect.

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Hon. D A Feetham: Mr Speaker, of course if there is a ruling about challenging the hon. Gentleman making the same allegations cloaked in parliamentary privilege outside this House where he is not going to be cloaked by parliamentary privilege, look he is not defaming me. It is not me that is being defamed, Mr Speaker. If there is a ruling, well I accept that there is a ruling.

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Mr Speaker, but the point that I am making is in a different way and it is this. That I do not think it is right for a Member of Parliament, but again I will sit down and allow Mr Speaker, if he thinks otherwise, I will allow Mr Speaker to intervene again in relation to this. I do not think, Mr Speaker –

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Mr Speaker: You can express a view, but not challenge him.

Hon. D A Feetham: I do not believe that it is right for a Member of this Parliament to go behind a defamatory judgement, a finding of the court, in this House seeking to undermine, seeking to undermine that order of the court, when if you cloaked in parliamentary privilege, well knowing that if he made the allegation outside, he would not be cloaked by parliamentary privilege and he would be subject to a defamation action.

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Because, Mr Speaker, the reality of the situation is this, let us be clear, that if an allegation that has already been determined by the court is repeated outside this House, it is defamatory, Mr Speaker. That is the point that I am making.

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Mr Speaker: Yes, but the point is this. We are not outside this House. We are within this House and here hon. Members are protected, they can say whatever they want and they cannot be sued for defamation. Their freedom of speech is protected, okay? So hon. Members here can say whatever they want.

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Outside it is another matter, but you cannot challenge a Member of Parliament to repeat outside something that he has said here in the House, challenge him in order that he can then be sued for defamation or whatever.

It is a Parliamentary position of privilege going back to the foundation and the battle for Parliament against King Charles I, going back therefore to – what century are we talking about? – the 17th century. That is a sacred right of all hon. Members.

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Hon. D A Feetham: Mr Speaker, for Mr Speaker to compare – I have to say, he has intervened now a number of times in this debate – but for Mr Speaker to compare a Member of the House coming to this House and repeating an allegation that has already been determined by the Supreme Court...

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May I be allowed, Mr Speaker, without interruption from Mr Speaker? I will sit down if Mr Speaker wants me to –

Mr Speaker: No, carry on.

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

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For a Member of Parliament to come to this House and effectively abuse a privilege by repeating allegations that have already been determined by a court, in the Supreme Court, I do not think is right, nor is it – Hang on a minute, Mr Speaker, may I please finish?

If you want I can sit down.

Mr Speaker: Go on, go on.

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Hon. D A Feetham: Ok, may I? I just have not finished the point, Mr Speaker! I have not finished the point. Nor is it comparable, nor is it comparable in the most imaginative mind, Mr Speaker, to defending privilege in Charles I's time, Mr Speaker – it just cannot be the same. It cannot be the same.

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If a lowly carer, Mr Speaker, has to sue a newspaper for defamation and gets an order against a newspaper and those making allegations – an order of the court – that he has been defamed, it cannot be right, Mr Speaker for then somebody an MP cloaked in parliamentary privilege to come to this House and repeat those allegations. It just cannot Mr Speaker, and no quoting of Rules are going to move me from that.

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But of course, your ruling, Mr Speaker stands. I accept it but I have to say that I do not agree with the logic in the least, Mr Speaker.

Hon. Chief Minister: Mr Speaker, may I –

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Mr Speaker: No, I am now going to speak.

The hon. Member or any hon. Member has a perfect right to say that that is not right. That in his view it is not right for another Member to abuse, if you like, the right of privilege in the terms in which has happened this evening in respect of that court ruling of defamation against his brother. That is perfectly clearly understood.

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Now, however, I can tell the hon. Member that when I was the Leader of the Opposition (**Hon D A Feetham:** I accepted that.) someone from outside Parliament... I received a letter from a member of the legal profession, representing the Transport and General Workers' Union, challenging me to say outside the House what I had said here. I showed the letter to the then Speaker, who hit the roof and who made a ruling in that respect. It was an abuse of contempt of the right to privilege.

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So I am not going to stop the Hon. the Leader of the Opposition from saying that he does not agree that it is right for Mr Bossano to have said what he has – fine. Fine, he is perfectly entitled to say that. Okay, perfectly entitled.

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Hon. D A Feetham: Mr Speaker, it is a completely different situation and I understand... No Mr Speaker, I am on my feet and I am not giving way. Mr Speaker, I am not giving way. (*Interjection*) Mr Speaker –

Hon. Chief Minister: Mr Speaker, a Point of Order is supposed to be heard.

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Hon. D A Feetham: Well, Mr Speaker, my intervention has been peppered by interventions, Mr Speaker, in fairness from the Speaker's Chair in good faith, I accept that and also from the other side.

Hon. Chief Minister: On a Point of Order, Mr Speaker.

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Mr Speaker: I would like to see whether anybody in Gibraltar could sit in this Chair as I have done, since five o'clock and conduct the proceedings of the House better than I have done. For the first two motions I had no problem at all, I did not have to intervene. I have only had to intervene when matters have got hot under the collar in the last hour, and then I have had to intervene because all hon. Members have been going too far in breaking the rules of debate. Otherwise I would not intervene.

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Now it is two o'clock in the morning, I think we are all tired, we are all very, very tired and it is very difficult. Hon. Members have an advantage over me, they can go inside and out whenever they want, they can switch off completely and not pay any attention to what is going on. I have to be here listening to every word paying very close attention and that is the difficult job which any Speaker has, and in particular here in the present circumstances, okay?

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So, I am not infallible. I may make mistakes but what I am is impartial. I try to be fair to both sides and I only intervene if I think I have to – otherwise I do not.

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Hon. Chief Minister: Mr Speaker, rising on behalf of this side of the House, dealing with the Point of Order which the hon. Gentleman has been dealing with, with you, Mr Speaker, we entirely accept that the rationale of not being able to challenge somebody to repeat something outside the House, the instance which you referred to, is exactly because – and this is what the Rule is about – people have sometimes obtained rulings outside the House – I am not commenting on the current issue – rulings or statements or they have obtained judgements because of, for example, higher economic power than the person who may have said something and the Parliament is the place where that person's representative can come and make the statement if they still believe it to be true and defend the truth of that statement. That is what the Rule is all about.

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Therefore, Mr Speaker, we entirely agree with your ruling and would ask the hon. Member to please, in order to ensure that the debate can continue in the way that you have indicated the earlier debates were held, to stick to the issues in the motion so that we can vote on the motion and hear the Parliament's will in respect of the motion.

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Hon. D A Feetham: Mr Speaker, there is a huge, huge distinction, Mr Speaker between – and I have to say because I think there is an important point of principle here – there is a huge distinction between the example that Mr Speaker gave which is somebody from the Transport and General Workers' Union writing to a Member saying 'Repeat that allegation outside' and the situation that I am addressing myself to, which is: there is a court case, there is a judgement and then somebody, a Member of Parliament then effectively wants to go behind that judgement and undermining it by repeating here what he could not say outside because the matter has been determined. I believe that is abusive of the privileges of this House. Not because...

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And look very often, Mr Speaker, I may say something in this House in the course of discharging my role as the Leader of the Opposition, or he may something in this House in the course of discharging his role as a Minister, that technically, if it is said outside, may be defamatory and I accept that and that is why privilege is there, in order to encourage open debate.

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But what the Rules are not there and what privilege is not there in order to do, is to allow somebody to just simply say, 'Well there is a defamatory judgment in favour of somebody, there is a witness statement that has been withdrawn as being false and it has been withdrawn, but what I am going to do is I am going to come to this House and I am still going to read from that witness statement and I am still going to try to undermine that judgment.'

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Mr Speaker, that with respect is an abuse of the proceedings of this House and the Rule in relation to privilege, Mr Speaker.

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Look, Mr Speaker, I do not intend to prolong these proceedings much further. If I have, Mr Speaker, been harsh in any words that I have spoken to Mr Speaker, I do not believe that I have, it is just that I feel strongly about this particular point, that Mr Speaker has genuinely looked at it from the perspective that in fact is the wrong perspective. If I challenged him to repeat it outside, I was not challenging him to repeat it outside, but if I was I accept your ruling.

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My point was a completely different one, Mr Speaker and it is about the abuse of Members of this House of Parliamentary privilege. It is a privilege, Mr Speaker. It should not be abused, Mr Speaker, it should not be abused.

Mr Speaker: I will now put the motion. Is a division required?

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Hon. Chief Minister: To a division, yes please.

Mr Speaker: We have voted on the amendment. Now what is before the House is a substantive amended motion. (*Interjection*) It is the amended motion which is now before the House.

A division was called for and voting resulted as follows:

FOR

The Hon. P J Balban
The Hon. J J Bossano
The Hon. Dr J E Cortes
The Hon. N F Costa
The Hon. A J Isola
The Hon. G H Licudi
The Hon. S E Linares
The Hon. F R Picardo
The Hon. Miss S J Sacramento

AGAINST

The Hon. D J Bossino
The Hon. D A Feetham
The Hon. S M Figueras
The Hon. J J Netto
The Hon. E J Reyes

ABSENT

The Hon. Dr J J Garcia
The Hon. Sir P R Caruana KCMG QC
The Hon. Mrs I M Ellul-Hammond

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Mr Speaker: There are three Members absent. Nine have voted in favour of the motion. Five have voted against. The amended motion is carried.

ADJOURNMENT

Mr Speaker: The Hon. the Chief Minister.

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Hon. Chief Minister: Mr Speaker, conscious of the late hour and the acrimony of the debate towards the end, but conscious also of the important issues that have been debated during the course of the

afternoon, I now invite the House to adjourn *sine die* as we commence the period known as Holy Week and wish all Members the best for this period which will involve some holiday time and which will involve the House not sitting this month as has been agreed in other years.

4690

I now move that the House do now adjourn *sine die*.

Mr Speaker: I now propose the question which is that the House do now adjourn *sine die*.

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

4695

The House will now adjourn *sine die*.

The House adjourned at 2.10 a.m.