



# PROCEEDINGS OF THE GIBRALTAR PARLIAMENT

**AFTERNOON SESSION: 3.00 p.m. – 10.20 p.m.**

**Gibraltar, Wednesday, 2nd March 2016**

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# The Gibraltar Parliament

*The Parliament met at 3.00 p.m.*

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

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

## Questions for Oral Answer

### ECONOMIC DEVELOPMENT, TELECOMMUNICATIONS & THE GSB

**Q245/2016**

**Gibraltar Home Loans Company Ltd –  
Loans or mortgages granted to date**

**Clerk:** We continue with answers to Oral Questions.  
Question 245. The Hon. R M Clinton.

5 **Hon. R M Clinton:** Mr Speaker, can the Minister for Public Finance advise if Gibraltar Home Loans Company Ltd has granted any loans or mortgages to date?

**Clerk:** Answer, the Hon. the Minister for Economic Development and Telecommunications.

**Minister for Economic Development, Telecommunications & the GSB (Hon. J J Bossano):**  
Not yet, Mr Speaker.

10

**Hon. R M Clinton:** May I ask if the company has applied for a credit licence?

15

**Hon. J J Bossano:** I cannot confirm whether they have or they have not. I will go back and check, but no loans have been... the home loans company has not engaged in any activity to date.

**Q246/2016**

**Credit Finance Company Ltd –  
Loan applications; investment decisions**

**Clerk:** Question 246. The Hon. R M Clinton.

20 **Hon. R M Clinton:** Mr Speaker, can the Minister for Public Finance please advise how loan applications are made to Credit Finance Company Ltd and how investment decisions are made and by whom and with reference to what criteria?

**Clerk:** Answer, the Hon. the Minister for Economic Development and Telecommunications.

**Minister for Economic Development, Telecommunications & the GSB (Hon. J J Bossano):** In writing, Mr Speaker. Whether to proceed with the granting of the loan application is a decision that is made by the people authorised to make it by reference to the return on the investment, the security granted and the effect on the social and economic development of the community.

25 **Hon. R M Clinton:** Mr Speaker, may I ask where are applications to be addressed and who are the people authorised to make those investment decisions?

**Hon. J J Bossano:** Yes, Mr Speaker, and I have answered that the applications are made in writing and that the people who process the applications are the people authorised to do it. I do  
30 not know whether he expects me to give him their date of birth and their name and address, but he is not going to get it if that is what he is expecting.

**Hon. R M Clinton:** No, Mr Speaker, my supplementary was to ask where, in terms of the physical address rather than the people, these applications should be addressed, and ... I will sit  
35 down.

**Hon. J J Bossano:** Credit Finance has an address, and if you write to somebody you write to the address where the company is registered. That is what you normally do, at least to my  
40 knowledge.

**Hon. R M Clinton:** Mr Speaker, in answer to previous questions the hon. Member has advised us that Credit Finance has no employees, so am I correct in coming to the conclusion that the people making these decisions are neither employees nor directors?

45 **Hon. J J Bossano:** I think it follows that you do not have to be a Sherlock Holmes to deduce that if there are no employees there cannot be employees making decisions, because they do not exist.

I said the people authorised to make it, and whoever is authorised to make it, whether it is a director or one of the public officials who run the Civil Service system in the Treasury... This is all  
50 managed by the Treasury. We do not employ people outside to do these things. So, whoever has got the authority to assess this and apply the criteria that has been laid down as a policy by the Government, which is consistent with the criteria that is contained in the legislation in the Savings Bank, are the people who take the decision.

55 **Hon. R M Clinton:** Mr Speaker, may I ask: have the directors of Credit Finance Ltd given any general or specific powers of attorney to anyone?

**Hon. J J Bossano:** The hon. Member can ask anything he wants, but whether they have or they have not is something that I have not enquired. I do not know whether he is saying that  
60 they should have or that they should not have, but I have not asked any director whether he has a power of attorney, nor would I expect to be asked that supplementary from the original drafting of the question.

**Hon. D A Feetham:** Mr Speaker, perhaps we can cease going round in circles and he could just simply answer this question: does the outfit make the decisions that my hon. Friend  
65 Mr Clinton is talking about?

**Hon. J J Bossano:** The outfit is the collective reflection of the people of Gibraltar. They make their decision and it is a collective representation of the people who vote there. Every decision

70 the outfit makes is consistent with the election manifesto for which the people voted. We are carrying out the will of the people, not the will of the Members opposite.

**Hon. D A Feetham:** I understand, Mr Speaker. It may well be that the decisions of the outfit are a reflection of the will of the people of Gibraltar by virtue of the fact that they got elected  
75 into Government. But that was not the question. The question is whether the decisions that are being explored and asked about by my friend Mr Clinton are being taken by the outfit: yes or no?

**Hon. J J Bossano:** The answer is he should have paid attention to me when I gave the first  
80 answer, because the answer to the original question is that the decisions are taken by the people authorised to take them, and that the policy that they apply in making the decision is made by the people elected to make policy decisions – and that policy has also been spelled out.

**Hon. D A Feetham:** Yes, Mr Speaker, but this is an important point. We are talking about a  
85 company, Credit Finance, that has had transferred to it £400 million of savers' money. I will repeat that so that listeners and viewers understand what we are talking about: £400 million of savers' money has gone from the Gibraltar Savings Bank into Credit Finance.

Credit Finance has no employees, according to the hon. Gentleman; all it has is directors. In  
90 fact, we know that the directors are corporate directors; they are not even human beings. The human beings are in the corporate directors.

When we asked earlier this morning about decisions that were taken in relation to some  
other aspects of Credit Finance, you said that it is the outfit that made the decisions – that is the Government. Now, we are entitled to know who is making these decisions. Of course the policy is going to be made and is going to emanate from the Government of the day. That I understand,  
95 and indeed that was precisely my criticism when I criticised the lack of openness and transparency and also sought to establish that link with the Government, because I was saying, 'Well, hang on a minute, this is the Government,' and he was at pains in the early stages of the debate to place an arm's length between the Government and Credit Finance. But if the directors do not take decisions because there are no employees that are employed by Credit  
100 Finance, then surely it must be the outfit that is taking the decisions – and that is the Government, by his definition.

**Hon. J J Bossano:** Mr Speaker, all the decisions that are taken in the public sector are the  
responsibility, politically, of the Members on this bench, whoever implements the policies.

105 I know that the hon. Member repeats what he says so that everybody hears, so the first thing is that he is wrong to say any money was transferred. The Savings Bank invests in the shares of Credit Finance – it owns Credit Finance.

And he does not seem to be able to even understand the difference between purchasing an  
110 asset and transferring money. The asset has been purchased. The entity has got a moneylender's licence and it lends money. The criteria for lending the money are laid by the Government. The policy is laid by the Government. The Government has defended that in an election, and the hon. Member has attacked it, and the majority have accepted the view of the Government and not his view – just like they did in the opposite direction in the last four years, and we have reminders of that every other day from them. So nothing has changed. The only difference is  
115 that the hon. Member thinks that he can govern from that side of the House, and the answer is that he cannot.

If and when he ever gets elected, he can run down the Savings Bank again, he can stop  
issuing debentures, he can stop Credit Finance and he can slow the economic growth of  
120 Gibraltar. But as long as we are here, the people employed in the public service, who are public servants, will be carrying out our policies, helping the private sector to expand and helping the

economy to grow. That is what is happening there, and if that is not sufficiently transparent for him, it is sufficiently transparent for the electorate.

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

125

**Hon. D A Feetham:** No, Mr Speaker, it is not sufficiently transparent for me –

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**Mr Speaker:** May I tell the hon. Members, the Minister and the Leader of the Opposition, that they are now beginning to debate, and there is a limit about the extent to which I am going to allow that.

**Hon. D A Feetham:** Of course, Mr Speaker. I defer to Mr Speaker's judgement on these matters, as I must.

135

But of course it is not sufficient for Members on this side of the House, because it is not sufficient when a Government of the day acts in the opaque, non-transparent manner that this Government acts.

140

But it is very simple. The question is very simple and it requires a very simple answer, because it is a factual question. It is about who takes the decisions, who makes the decisions on behalf of Credit Finance – and it must be the directors of Credit Finance. That is the simple answer: it is the directors of Credit Finance. Even though the Government sets the policy, it must be the directors of Credit Finance. But he finds it difficult to even tell me that – that it is the directors. He talks about officials. It cannot be these phantasms of officials, because Credit Finance, which is a Government-owned company – but nonetheless is a company, it is a limited company – must act through its directors, and it has no employees, it has no officials. You cannot have phantoms of officials acting on behalf of a company when the hon. Gentleman has said there are no officials. That is the point.

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150

We only want to know who is taking these decisions. This morning he was very helpful. We may disagree with the outfit taking the decisions, but this morning he told us that it was the outfit that took the decisions. In other words – the outfit, according to him, was Members on the opposite side, the Government – the outfit was making the decisions. Now he is telling me that it is the officials, but this company has no officials. I just want to know who is taking the decisions in relation to a company that has – whether by way of transfer, investment or whatever it is – it has £400 million, £400 million of savers' money, and the Government has a responsibility to shed light on how those decisions are being taken and by whom.

155

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**Hon. J J Bossano:** Mr Speaker, the Members opposite, who have been doing their best, unsuccessfully, to undermine the policies in this area since 2011 (**A Member:** Yes.) – a policy that the previous GSLP initiated in 1988 when the bank grew, as it did, from £3 million to £300 million in eight years – have been making an issue of the fact that if you give savers' money to Barclays Bank, as they were doing, you do not ask, 'Who has decided to make a loan in the Savings Bank: the directors or the guy employed in Barclays Bank to do it?'

165

The answer is that Credit Finance does not have people on the payroll of Credit Finance. Credit Finance, as a company, is managed on a day-to-day basis by the Treasury. The people in the Treasury are the officials that I have said are the people authorised, and I have used the word 'authorised' as opposed to being employed, because they are not employed. Whether anybody authorised needs to go back to ask a director for any clarification on anything, it would be if there was any doubt whether the criteria laid down by the policymakers, which is us, was being met or not.

170

As far as I am concerned, that is the same explanation that I have given him several times. It is not an explanation that he wants, because he wants something to be able to criticise – and if he accepts the explanation, he cannot criticise it. Well, he can carry on criticising it, because it will do him as little good this time as it did the last one.



Q247/201

**GSBA, Gibtelecom and Credit Finance Company –  
Market value of ordinary and preference shares**

**Mr Speaker:** Next question.

175 **Clerk:** Question 247. The Hon. R M Clinton.

**Hon. R M Clinton:** Mr Speaker, can the Minister for Public Finance advise how the market value for ordinary and preference shares held by the Savings Bank Special Fund in GSBA Ltd, Gibtelecom Ltd and Credit Finance Company Ltd, have been determined?

180

**Clerk:** Answer, the Hon. the Minister for Economic Development and Telecommunications.

**Minister for Economic Development, Telecommunications & the GSB (Hon. J J Bossano):** Mr Speaker, the shares in question do not have a market value, since they are not quoted on any stock exchange.

**Hon. R M Clinton:** Mr Speaker, I am grateful for that answer.

185

I wonder if he could reconcile that statement with the schedule of investments we get regularly, and in fact are in the Principal Auditor's Report, whereby, for example, Credit Finance is being shown as having a market value; or is that perhaps a mistake and perhaps should be reclassified to being held at cost?

190

**Hon. J J Bossano:** Mr Speaker, the shares have the value in the balance sheet of the Savings Bank, which is the value at which they were issued to the Savings Bank. That does not mean that it is a market value, nor indeed that it is their real value, because there may be profits in the company, which means that the profit per share would enhance the cost price of the share. So all the shares are shown at the original cost of the acquisition.

195

**Hon. R M Clinton:** I thank the hon. Member for his answer, but would he agree with me that it is perhaps a misnomer in the way the investments are currently disclosed in the schedule of assets of the Special Fund?

200

**Hon. J J Bossano:** Well, it may be a misnomer because the title that has been put in the column is 'market value'; but, for example, the debentures of the Government have no market value and the Savings Bank has got debentures of the Government – and the hon. Member has not asked me what is the market value of those debentures. It is the same thing, but okay, if it makes him happier I will get the title at the top amended, and it will say 'market or acquisition value'.

205

**Hon. R M Clinton:** Yes, I appreciate that remark, Mr Speaker, but I would suggest that, rather than change the title at the top, perhaps the schedule should be split in two so that we know which ones are really at market value and which ones are at cost.

**Q248/2016**  
**Civil Service –**  
**Agency workers**

210 **Clerk:** Question 248. The Hon. D A Feetham.

**Hon. D A Feetham:** Mr Speaker, can the Government provide details of workers who have been working within the Civil Service structure in the last 12 months from recruitment agencies or companies, giving details of the start date, end date or expected end date, the reason why the services is/was required, recruitment agency or company from which the worker was provided, Departments in which the worker has been placed, and, if any, have been employed by Government since?

220 **Clerk:** Answer, the Hon. the Minister for Economic Development and Telecommunications.

**Minister for Economic Development, Telecommunications & the GSB (Hon. J J Bossano):** Mr Speaker, as the hon. Member knows from the Estimates of Expenditure, the Government decided some time ago, as a matter of policy, to make provision for relief cover in the Civil Service structure of all Departments, which, prior to 2011, existed in some and not in others.

The relief cover head has been used to pay for the following number of staff supplied for two companies: Rock Admin with one supply worker; and S&K with 27. Eleven supply staff provided by S&K are no longer in the Civil Service structure. One of them obtained employed as Audit Clerk.

225 The current dates of termination of the supply cover are all in 2016. However, the hon. Member presumably understands that, for example, when someone comes back from maternity cover, sick leave or annual leave, or any other reason for the staff shortage, supply workers terminating in one Department often get redeployed onto others where a new requirement arises. This sometimes happens seamlessly and sometimes the supply agency takes its employee elsewhere and may bring the person back at a later stage. The bulk of those placed started in 230 2015 or late 2014 but have not necessarily been posted in the same area.

The deployment by Department currently stands as follows, but could change tomorrow.

Technical Services	1
Fire and Rescue Service	1
Income Tax Office	3
Statistics	2
Housing	1
Department of the Environment	1
Human Resources Department	1
Gibraltar Audit Office	1
IT Department	1
Post Office	1
Treasury (Salaries)	1
Treasury (Wages)	1
Treasury (Accounts)	2
Treasury (Payments)	1
Education	3
GHA	5
CSRO	1
ETB	1

235 **Hon. D A Feetham:** Mr Speaker, and none of these commenced their service within the Civil Service structure, so to speak, earlier than late 2014?

**Hon. J J Bossano:** That is correct, yes.

**Q249/2016**  
**Approved contractors scheme –**  
**Details of scheme members**

**Mr Speaker:** Next question.

240

**Clerk:** Question 249. The Hon. D A Feetham.

245 **Hon. D A Feetham:** Mr Speaker, can the Government please provide details of all companies, businesses, self-employed individuals and other entities who are or were on the approved contractors scheme as at the end of December 2011, 2012, 2013, 2014 and 2015, together with details of their specialist trades, works given and value of such, together with the work currently being undertaken and value of the same?

**Clerk:** Answer, the Hon. the Minister for Economic Development and Telecommunications.

250

**Minister for Economic Development, Telecommunications & the GSB (Hon. J J Bossano):** No, Mr Speaker.

**Hon. D A Feetham:** Does that mean that the outfit does not want to provide us with an answer to this particular question?

255 **Hon. J J Bossano:** No, Mr Speaker, it does not mean that. It means that this is not information that is readily available and can be produced at the push of a button. The hon. Member, having been in Government, knows this full well. It would take a considerable amount of time and an army of people going through five years of paper records to try to compile the volume of information; and, as he wants it in an oral answer and I always try to please him in that respect, if I had to read the question it would take me a week.

260

What I have readily available is the most recent list of approved contractors and their specialities, and I am happy to pass that over to the hon. Member. I can also tell him that my impression is that the list sees very little movement in or out.

265 Of course, if it is information that he wants collected to bring the public administration to a grinding halt, then he can count on me not to help him.

**Hon. D A Feetham:** Yes, Mr Speaker, in relation to the last lesson, I chose not to learn that particular lesson from him – because he was the master of asking statistical questions in order to grind the administration to a halt when he was on these benches.

270

Yes, I will take any information that he can provide, of course. But if this question is left over – or I can repeat this question, if it is a question of time – for next time round, and for example ... Look, he may not have all the information for all these years, but certainly he must have it for 2014 or 2015. I would just appreciate some guidance from the hon. Member as to what parts of this he could answer, for example next month, and I will just simply repeat the question next month.

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**Hon. J J Bossano:** Well, I can get people working on different parts of the question, if the hon. Member is happy with that. He does not need to ask me every month. I will send him ... As it is ready he can get what is available.

**Q250/2016**  
**Brussels office –**  
**Payments to staff**

280 **Clerk:** Question 250. The Hon. T N Hammond.

**Hon. T N Hammond:** Mr Speaker, can the Government provide figures for the amount paid during 2015 to each member of the Brussels office in salaries, allowances, bonuses, retainers, fees or any other benefit in kind?

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

**Deputy Chief Minister (Hon. Dr J J Garcia):** Yes, Mr Speaker, the information requested by the hon. Member is as follows:

	£
EU Political Director	207,437.50
EU Legal Representative	96,173.65
Finance and Admin Director	53,893.41
Interns	20,376.15

290 It should be noted, Mr Speaker, that the relevant tax rate in Brussels is from 48% to 52%.

**Q251/2016**  
**Brussels office –**  
**Lobbying activity**

**Clerk:** Question 251. The Hon. T N Hammond.

**Hon. T N Hammond:** Can the Government provide a list of all lobbying activity conducted by the members of the Brussels office since its establishment?

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

**Deputy Chief Minister (Hon. Dr J J Garcia):** Yes, Mr Speaker, it is not in the public interest to publicise a detailed list or description of all lobbying activity conducted by the representation in Brussels since its establishment.

300 The Government can, however, confirm that in 2015 the Brussels office organised and participated in individual bilateral meetings on many occasions, more than once with the same person, with at least 79 Members of the European Parliament, 29 officials of the European Commission, nine officers of the Permanent Representations of the Member States, and two members of the Economic and Social Committee.

305 At these meetings, the individuals concerned were briefed on issues that are of political importance to Gibraltar. These include issues such as the dispute with Spain over the application

310 of the EU aviation legislation to Gibraltar, the unjustified labelling of Gibraltar as a tax haven, the restriction imposed on the right to free movement of people at the border between Gibraltar and Spain, or issues relating to general misconceptions held in EU circles over Gibraltar's status in the EU.

**Clerk:** That completes answers to Oral Questions.

## Questions for Written Answer

315 **Clerk:** Answers to Written Questions, the Hon. the Chief Minister.

**Chief Minister (Hon. F R Picardo):** Mr Speaker, I have the honour to table the answers to Written Questions numbered W25/2016 to W35/2016.

**Mr Speaker:** Ordered to lie.

## Order of the Day

### GOVERNMENT MOTIONS

#### Select Committee on Constitutional Reform – Committee established

320 **Clerk:** Order of the Day. Government Motions.  
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.

*This House:*

*Notes and recalls that the Gibraltar Constitution of 2006 was adopted 10 years ago;*

*That the said Constitution of 2006 furthermore had its origins in a process which commenced in 1999;*

*Considers that there should be a review of the 2006 Constitution by a Select Committee of this Parliament in order to assess what changes to it are necessary or desirable;*

*And therefore hereby resolves to establish a Select Committee which shall be known as the Select Committee on Constitutional Reform which shall consist of three Members nominated by the Chief Minister and two Members nominated by the Leader of the Opposition.*

325 Mr Speaker, the position of the Government in respect of this motion is well known. In fact, it is one of the matters set out in our manifesto at the recent General Election, where we set the agenda for what would be the progress in respect of constitutional advancement, setting out the need to review, on page 18 of the manifesto, the possibility for a select committee and a constitutional review conference.

330 Mr Speaker, the Constitution that we have in place at the moment – and I note that you and other Members of this House were part of the Select Committee, or in fact part of the negotiating team that went to London to obtain that Constitution – has been a Constitution that for 10 years has, of course, changed the way that Gibraltar has been run. We saw wholesale amendments to our legislation after its introduction – in the Interpretation and General Clauses Act, for example, where the word ‘Governor’ was changed for the word ‘Minister’. The repatriation of powers was quite substantial and the House and the Government have been working under the auspices of the new Constitution now for almost 10 years.

Mr Speaker, in broad terms it is likely that there will be four types of amendments that we will be identifying, or proposed changes that we should be identifying.

340 Initially, of course, the Select Committee made recommendations which were not able to flourish in the negotiations with the United Kingdom in the period 2004-05 when the negotiations were ongoing. Some of those the select committee to be created might consider should now be put again and might prosper.

345 Secondly, Mr Speaker, the nuts and bolts detail of the working of the Constitution. With the best will in the world, in creating a document of this sort there will sometimes be nuts and bolts issues which will need to be changed. Those sometimes arise also in the context of judicial proceedings which may have thrown up minor issues with the Constitution: issues relating to trials etc., non-political issues which the Constitution also deals with and have to be updated as a result of decisions of our court making it desirable to do so, indications from judges that it might be desirable to do so, or indeed judicial developments outside of Gibraltar in other courts that Gibraltar may also have to take cognisance of – at the Court of Human Rights, the Court of Justice and the Privy Council in the United Kingdom.

350 Mr Speaker, there are other proposed changes that the select committee may wish to make when the time comes. We have made many changes to the way Gibraltar is run since 2011 – for example, the monthly meetings of Parliament and other aspects of what we have done, which the select committee might decide are better dealt with in the context of the Constitution.

355 In parallel, Mr Speaker – and I will move in a moment another motion – we have the Select Committee of the House that I hope will soon finish its work. We spent some time looking at the work that had been done by the Independent Review Commission during the lifetime of the last Parliament – we need to round off that work. Some of that work may result in proposed changes which this Parliament may adopt, which may also need to see some read-through into a new Constitution in the manner of ensuring tying into the Constitution some of the things that the Select Committee on Parliamentary Reform may recommend – for example, issues relating to codes of conduct in public life etc. Those are things which we may decide should be in the Constitution.

365 Mr Speaker, those are the character of changes that it may be that you can define as being the different heads that the select committee may come up with. I think this is necessary work. I think this is a review that needs to happen.

370 All options are open for the select committee. The select committee could come back to the House and say that on reflection the time is not ripe for a position to be put to the British Government, or it could be that there are issues to be put and that we should then consider those in this Parliament and determine together how best to take that forward. That, I think, is work that we need to do.

375 I am conscious, of course, of the fact that it was highly unsatisfactory for Gibraltar not to have had constitutional change for 30 years between 1969 and 1999 when the former Select

Committee was created. It then took some considerable time for the Select Committee to do its work and to then prosper with the 2006 Constitution.

380 There are, of course, political issues that we need to look at together in the select committee and decide how we want to put them for our people, not for any of our individual parties or partisan interests. All of those things, Mr Speaker, I think are the mature way to ensure that you keep under review, but in a way that is accountable to the people, how the Constitution is working.

385 I have in mind also some detailed work. We have discussed, for example – and I think I have said publicly before – that we have wanted to ensure that the rights of disabled people are secured for them not to be discriminated against. We think it is important that there should not be two different categories of fundamental rights – fundamental rights contained in a constitution and fundamental rights contained simply in a statute, important though that is – and that there may be a requirement to ensure that all the categories of non-discrimination that this Parliament believes are appropriate should be contained in the same standard of document.  
390 Those things I am sure will be things that will carry the support of the whole House.

Mr Speaker, in my research in respect of how important it is to keep constitutions under review, I note that the Bermuda constitution, which has always been seen as the one which is just slightly more advanced than the current Gibraltar Constitution, is a constitution that was granted before, I believe, the 1969 Constitution for Gibraltar, but has been amended, I think,  
395 eight or 10 times already by order in Council.

And so, Mr Speaker, I think it is important that we do this exercise. I trust it is an exercise we will be able to do together. It is an exercise in which we have to be totally accountable to our people, because this is, in effect, our Magna Carta, and I sincerely hope that this is a motion that will enjoy the full support of the whole House and that the select committee will be able to do  
400 its work in an atmosphere of co-operation and conviviality.

**Mr Speaker:** I now propose the question in the terms of the motion moved by the Hon. the Chief Minister.

405 The Hon. the Leader of the Opposition.

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

The Opposition cannot support the motion in its current form.

I am very grateful to the Hon. the Chief Minister for recognising that the new Constitution in 2006 was effectively a game changer constitutionally for Gibraltar. As he says, it was a new  
410 Constitution that was negotiated, agreed, and then, following a referendum, enacted here, provided and extended to Gibraltar, which effectively changed the way that the Government was run in terms of the relationship with the Governor, the relationship with the United Kingdom, and the repatriation of many of the powers that we now enjoy back to, or, extremely to the Gibraltar Government from what was then the Governor.

415 I am *extremely*, extremely proud about the way that certainly the party on this side of the House not only supported the process of the Select Committee through the negotiating process with the United Kingdom, but also the way that it recommended to the people of Gibraltar in very clear terms that the people of Gibraltar ought to vote a yes to the Constitution, which was something that was heeded by the people of Gibraltar in the results of the referendum.

420 But, Mr Speaker, our position has been, and it is one of the fundamental policies of the GSD since the 2006 Constitution, that the 2006 Constitution provided the people of Gibraltar with the maximum level of self-government compatible with British sovereignty short of independence. That has been a fundamental tenet, a fundamental policy of the GSD party, and one that we are not prepared to compromise on and one that continues to be a policy of the party.

425 I recognise that of course it is a policy of Members opposite, but what this is about is Members opposite asking the Opposition to adopt a policy that is not ours, a policy that is theirs.

I have gone on record in the past asking the hon. Gentleman to explain what it is that he envisages and what it is that he means – in the words of this particular motion, but certainly it is something that I have raised before this motion was drafted: what are the changes that he believes are necessary and desirable?

430 Today he has talked about the nuts and bolts, the need to be changed as a consequence of traditional review. I am not aware of changes as a consequence of decisions. He then speaks about ... well, there might be areas that arise as a consequence of parliamentary reform and the other Select Committee that we have convened and the work in relation ... I am none the wiser  
435 in relation to what the Government means by changes that are necessary or desirable.

Of course, in any exercise such as this, a Government needs to come in, or the parties need to go in, with a very clear idea of what they want to achieve. In 1999, when we started the process of constitutional reform, of course we had a very clear idea, because the genesis of the constitutional process in 1999 was that there had been a White Paper by the United Kingdom  
440 Government. So, in 1999 a White Paper, 'Partnership for Progress and Prosperity in Britain and the Overseas Territories', which was sent to every single Overseas Territory by the United Kingdom Government inviting proposals for constitutional reform. That is what then led to this House setting up a Select Committee on Constitutional Reform, which then produced a draft Constitution which formed the basis for the negotiations that took place and started, I think it  
445 was in 2004. I had the privilege and the honour of forming part of that negotiating team, along with the Hon. Mr Speaker, the Father of the House, and also the Deputy Chief Minister, and that then produced the result, our 2006 Constitution, which was adopted in a referendum. But it appears to us that this is quite a different situation altogether. Then, there were proposals being invited by the United Kingdom Government; this is their own initiative, and I think that it is  
450 incumbent upon them to provide us with a very clear understanding of what it is that they want to go with this.

Thirdly, there is, I think, an additional difficulty, and that is that although I cannot foresee fundamental ... I do not see the appetite in Gibraltar for fundamental constitutional reform, and of course I have already said our position is that the Constitution provides the maximum level of  
455 self-government short of independence compatible with British sovereignty, but the one area where I envisage circumstances where there might be a need for fundamental constitutional reform might be after the Referendum on 23rd June; because if, God forbid, there were a decision by the people of the United Kingdom and Gibraltar collectively to leave the European Union, then I think that in those circumstances we have to really get our serious thinking caps on  
460 and do some serious thinking about our relationship with the United Kingdom and how it is that we want to progress that relationship. It may well be that we want to go towards a situation ... I put it no higher than that, but we might want to go to a situation where we want some form of devolved integration with the United Kingdom in order to provide us with the protection that we might need in case our neighbours to the north decide to play silly buggers, so to speak, with the  
465 Frontier and use their full powers, in the circumstances where the United Kingdom leaves the EU, to try and place restrictions on the Frontier.

Those are the three areas that cause me concern. Having said that, I have said as well that the Opposition wants to try and see whether it is possible at all to work with the Government. And what we have done is come up with proposed amendments that I would like the Hon. the  
470 Chief Minister and Members opposite to consider in order to see whether we can progress and amend this motion in a manner that allows the Opposition to participate on the terms of this amended motion. If I may just distribute some to my colleagues.

Mr Speaker, I have to move the amendment before I sit down and that is why –

475 **Mr Speaker:** For guidance, you see... would you have...what the Leader of the Opposition has circulated is what the amended motion would look like if the proposed amendments are incorporated into the Chief Minister's motion.



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

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**Mr Speaker:** More correctly, what you should have done should have been to actually circulate the proposed amendments. That is what you should have done more correctly.

But, having looked at what the amended motion would look like, I am not going to ask the Hon. the Leader of the Opposition to do that now, because it is not a straightforward exercise, but ideally that is what should have happened.

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So, what I would say is that what the amendment being moved by the Leader of the Opposition amounts to is this: the addition of –

**Hon. D A Feetham:** Can I go through it myself?

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**Mr Speaker:** I am going to ask you to read it out in a moment, yes; but what it would amount to, really, is the –

**Hon. D A Feetham:** Well, let me explain, Mr Speaker, what it amounts to and then I can read it out. But I just –

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**Hon. Chief Minister:** Read the amendment.

**Mr Speaker:** Sorry?

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**Hon. D A Feetham:** I will read the amendment.

**Mr Speaker:** I have to though.

**Hon. D A Feetham:** Yes, Mr Speaker will have to read the amendment. I just want to explain very briefly, Mr Speaker, so that it is understood how opposition arises.

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**Mr Speaker:** You see...In order to arrive at this –

**Hon. D A Feetham:** I am totally in Mr Speaker's hands.

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**Mr Speaker:** In order to arrive at this, you really have to –

**Minister for Economic Development, Telecommunications & the GSB (Hon J J Bossano):**  
Move the amendment.

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**Mr Speaker:** In order to arrive at this you would have to delete all the words after 'Furthermore' in the Chief Minister's motion and replace –

**Hon. D A Feetham:** No, Mr Speaker, the parts in red –

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**Mr Speaker:** 'Recalls that the Gibraltar ... was adopted'

**Hon. D A Feetham:** Nothing has been deleted. There have been additions; nothing has been deleted. That is why I just want to –

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**Mr Speaker:** But then those amendments should be moved individually. They should be moved separately. The correct way of doing it would be for those amendments in heavy type on the sheet circulated by the Leader of the Opposition ... All those amendments in heavy type should, strictly speaking, be moved separately. In order to avoid that ... That is the correct

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position. I am prepared, not to complicate matters, to allow the Leader of the Opposition to read out what the motion would look like as amended and allow debate, but I think I ought to give notice for the future that this is not the way to do it. That is not the way to do it. (*Interjection*) That is not the way to do it, okay?

535 The Leader of the Opposition.

**Hon. D A Feetham:** Mr Speaker, I am very grateful.

The proposed amendments are in bold and in red.

The first amendment reads, 'After '1999' – in other words the paragraph that says:

'That the said Constitution of 2006 furthermore had its origins in a process which commenced in 1999;'

I am adding ... and I know the Hon. the Father of the House says that is wrong ... And in fact, if it is wrong and he persuades me that it is wrong, we can delete this. That is not a die-in-the-ditch issue for us, but it reads:

namely the invitation in the 1999 White Paper, 'Partnership for Progress and Prosperity, Britain and the Overseas Territories', to Overseas Territories Governments to submit proposals for constitutional reform.

540 That was, I believe, the genesis of the constitutional process that commenced in 1999. It was a response to an invitation by the United Kingdom – I have always understood it as such – to make proposals for constitutional reform.

545 The second paragraph is an important one to the Opposition, because, Mr Speaker, the motion as read out, as it stands drafted by the Hon. the Chief Minister, provides that the *House* considers that there should be a review of the 2006 Constitution by a select committee. Well, that is not our position, and what I want and seek agreement of this House is that the position of the Opposition ought to be acknowledged. Therefore, the paragraph that I have inserted states:

acknowledges that it is the position of Her Majesty's Opposition that the 2006 Constitution provides for a modern relationship between Gibraltar and the United Kingdom and that gives Gibraltar a maximum degree of self-government compatible with British sovereignty of Gibraltar.

Indeed, hon. Members will note that that is almost precisely the wording that is provided in the ... I think it is the preamble to the new Constitution of 2006.

And then I have added the words:

acknowledges that Her Majesty's Government considers

because it is *their* position that there should be a review.

And then I propose:

acknowledges that Her Majesty's Opposition is not aware what provisions of the 2006 Constitution Her Majesty's Government considers should be assessed for changes

– because we do not –

acknowledges that in the interests of unity Her Majesty's Opposition agrees to the establishment of a select committee for the purposes of reviewing the 2006 Constitution, but that no substantive work will be undertaken until after the EU Referendum on 23rd June 2016.

550 In other words, Mr Speaker, we are agreeing to participate in a select committee, acknowledging what is our long-held position constitutionally and what this Constitution did for Gibraltar, acknowledging that there is a very difficult decision that has got to be taken by the United Kingdom by the people of Gibraltar about in/out of the EU on 23rd June, which might have an impact on the process. It does not mean that we cannot have meetings, for example,

555 prior to 23rd June, but that there will be no substantive decisions that will be taken until after  
23rd June 2016.

I would hope, Mr Speaker, that the hon. Gentlemen opposite can accommodate what are, in  
our respectful view, reasonable but necessary amendments in order to also reflect what our  
560 position is, that will allow us to participate in this process, which is *their* policy, in a spirit of unity  
and also co-operation and constructiveness.

That is why I am proposing these amendments, Mr Speaker.

**Mr Speaker:** All Members of the Government, including the Chief Minister, can speak on the  
amendment.

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**Hon. Chief Minister:** Mr Speaker, I am very disappointed to see that the hon. Gentleman is  
not going to be able to support the policy of the Government which has been elected 98 days  
ago with an overwhelming majority of public voting in the General Election, which has a policy to  
undertake this review in this way. A select committee is a committee of both sides of the House,  
570 where both sides of the House are able to put their own views.

Mr Speaker, if the hon. Gentleman believes that we have reached that maximum possible  
level of self-government, that we should not do anything before Brexit etc., it is up to him – he  
can say that in the select committee, that he has a different policy.

575 He may have a different policy as to whether we should, as a result of the review, make any  
changes to the Constitution or propose them, but surely he is not saying that he is not even  
prepared to review the Constitution. That is his position, Mr Speaker, as explained today, given  
that he says that it is *our* policy to review, but that he is not aware of any provisions that should  
be changed.

580 Well, look, he might become even more convinced that there are aspects of the Constitution  
that have to be changed than we might by the end of the process. This is not a commitment to a  
change; this is a commitment to a review. Therefore, Mr Speaker, we do not accept that this is a  
question of setting out the different policies of the Government and of the Opposition in respect  
of the motion, which deals with the paragraphs that he has included.

585 He is trying to set out what his position is. He is trying to put into a particular box the position  
of the Government, as it being just the Government's view. He is then trying to set out that the  
Opposition itself is not aware of anything that should be assessed for change, and then setting  
out that only in the interest of unity the Opposition is going to support the creation of the select  
committee.

590 Mr Speaker, I must say this is the most ill-tempered proposed amendment I have ever seen  
to a motion seeking to establish a select committee, especially given that I have said at the  
beginning that we are not going into the select committee with any preconceived notions – I  
have given just an indication of the types of issues that we would be wanting to look at.

595 Mr Speaker, he told us about the campaign for the 2006 Constitution, at the referendum, and  
how proud he was that the party that he now sits with – I forget whether he was with them then  
or not; he must have been, because he was included by Mr Caruana in the negotiating team in  
order to try and raise his profile a little bit ... how proud he was of the work that they had done  
in presenting the Constitution at the referendum and how the Constitution was one of the  
defining benefits that they had left us.

600 I do not think it is the position of all of them, Mr Speaker, because I am reminded that  
nobody on this side of the House led the no campaign. The no campaign was led by Mr Robert  
Vasquez, who described the 2006 Constitution at the time as a wasted opportunity. Well,  
Mr Speaker, maybe Mr Vasquez can give him a hint of the things that he might like to see  
reviewed in the 2006 document that we are dealing with.

605 But that aside, what we are talking about establishing is not a committee with a  
predetermined destination; it is a committee to undertake a review. And that committee, as it  
did last time, can take evidence from people. Mr Vasquez, who was not elected at the last

General Election, could come to give us evidence again, as he did to the last Select Committee, and tell us what he thought were the wasted opportunities of 2006, others could come and tell us what their views are, and by the end of that process we may all unanimously be convinced that there is nothing to propose or that there is a lot to propose.

But, Mr Speaker, I do not want to deal with all the other issues that the hon. Gentleman has raised, and I have a lot of other issues to go through; I want to deal only with the amendment that he has proposed. For those reasons, those paragraphs of the proposal that he is making which seek to carve out the position of the Opposition and the position of the Government and put them in separate boxes is not one that I think is positive. I do not think it is conducive to unity. I think it sets to etch in stone the differences of opinion between the Members opposite and us, and therefore I do not think that it is appropriate that they should prosper.

I know that the Hon. Mr Bossano has something to say about the paragraph that deals with the 1999 White Paper, which is the only paragraph in respect of which our position has not yet been set out.

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

**Hon. J J Bossano:** Mr Speaker, as well as putting it in the amendment, he actually mentioned the White Paper as the initiator of the process of the constitutional proposals that came from Gibraltar. This is totally incorrect. In fact, 1999 was the date that the Select Committee was set up and we were invited by the then GSD Government to join with them in order to put proposals to the United Kingdom when they had already tried to achieve it on their own and got nowhere. It was not in response to the 1999 White Paper, and in the motion before the House then at no stage did the Government say we were being invited to respond to anything from the United Kingdom. This was a Gibraltar initiative, independent of the White Paper.

What happened at a later stage, towards the end of the negotiating process, is that the United Kingdom Foreign Office hijacked what we were doing and put us together with all the other Overseas Territories who had had constitutional amendments, and then of course came up with this collective mantra that we were not being decolonised but we were now non-colonised because we were now modernised.

There has been a very clear debate for many years in this House between the GSD and the GSLP that modernity is not the equivalent of decolonisation and that the farce of this nonsense that a modern non-colonial constitution is something different was put beyond the shadow of doubt by something that I happened to have been closely involved with, which was the position of the Turks and Caicos Islands, where Lord Triesman – in the Labour Government, to their shame – the man who had been the General Secretary of the Labour Party, actually went to the Turks and Caicos Islands and encouraged them to accept a new constitution, which had been negotiated by the local political parties with the United Kingdom, and told them that the result of that was that the United Kingdom was no longer the colonial power and that it meant that they were now effectively, practically self-governing, consistent with a continuing British sovereignty, but that it was a modern and a non-colonial relationship. And having said all that, he said that they were not going to the United Nations for delisting because they did not believe in the delisting and because they had abstained in the motion of 1964 when the delisting was introduced. Having said all that, two years later they suspended the constitution, removed the government, removed the opposition, removed the parliament and removed the speaker. Jolly good job it was not a colony: if it had been a colony they would probably have executed the lot!

So either you are a colony or you are not a colony; it is a matter of international law. We happen to have, without a doubt, a level of self-government that is higher than almost any other of the British Overseas Territories except one, which is Bermuda. But Bermuda has a higher level of self-government than we have since 1968, so they have not got a modernised or modern or recent constitution. And the only reason in the talks in London ... I do not know whether the Leader of the Opposition remembers or not, when I raised this point the only reason that the

660 legal adviser of the Foreign Office gave for the position of Bermuda having been attained in 1968, was that they gave it only because they were misled by the Bermudans into thinking that the Bermudans were on the point of going independent, and therefore they were persuaded to grant them almost total independence. And then the Bermudans did not ask for independence and they were stuck with it, but they were not prepared to repeat that with any other Overseas Territory.

665 So, first of all, it would be wrong to include in a motion in this House something which is factually incorrect and untrue. Indeed, when I spoke from the Opposition benches to set up the Select Committee, what we did was we said we would join it for one purpose and one purpose only, and that was to get the right of self-determination enshrined into the Constitution, which regrettably we did not to the extent that we wanted, and that the purpose of the Constitution  
670 was to come up with a Constitution that was capable of being accepted by the international community as a decolonising Constitution. And when we started the process I asked the then Chief Minister, as Chairman of the Committee, to inform the Secretary General of the United Nations that we were starting work on a Constitution with the objective of arriving at a decolonised Gibraltar. He said the Government would consider that. I said, 'Because that is the  
675 reason why we are joining: you have your agenda, this is ours.'

We then said about the agenda of the Government. The agenda of the Government was to go line by line – that is why it took so many years – line by line through everything in the existing Constitution and everything in the Constitution they had already put to the UK and the UK had already turned down on the basis that that might produce something which would be accepted  
680 if it was a unanimous position from both sides.

We accepted everything that the GSD said was important to them: everything. We said, 'We are not here to decide whether we meet once a month or we meet every day in Parliament, or whether we do things more for us; the issue is the decolonisation of Gibraltar. That is the issue for the Socialist Party, and therefore, as part of the exercise of having a joint approach we will  
685 support all the things the GSD want.'

After that, when the process finished – in the room that used to be here before, which looked much better than this one (*Laughter*) –

690 **Hon. D A Feetham:** I agree with that.

**Hon. J J Bossano:** Good – at least we agree on something!

**Hon. Chief Minister:** [*Inaudible*]

695 **Hon. J J Bossano:** We agreed in this meeting what the final paper was going to be, and I then asked the then Chief Minister, 'What is going to happen with the letter you promised me three years ago?'

He said, 'Well, the Government still has not made up its mind.'

I said, 'Well, look, I have been very patient with you. You know that this is important to us.  
700 Now at the very least what you can do is say, "We have now finished the Constitution, which we are going to put to the United Kingdom in order to decolonise Gibraltar." If you did not want to say it at the beginning you have got to say it at the end.'

'Well, no, no, no, if you push me,' he said in his usual fashion, 'if you push me, then the answer is no and I will stop considering it'

705 I will not go into all the graphic details of what transpired after that event. I think it was actually recorded on tape, but I do not know whether the hon. Member remembers what came out publicly afterwards. No? Well, I do not think I should repeat it. Okay, I will paraphrase it. Is that okay?

710 **Hon. D A Feetham:** You have lost me.

**Hon. J J Bossano:** I have lost you. Well, maybe I can jog his memory, or maybe he was not that interested in politics in those days. I do not know.

715 When the meeting finished ... It was very heated, you know, and we parted on not very friendly terms. I cooled down and the then Chief Minister departed. When he got downstairs and GBC was waiting at the door and they asked him how did the meeting go, Mr Caruana said, 'Well, very badly. We are not going to meet anymore, because Mr Bossano of the Opposition has called me ...' something – I will not say the 'something' – and, being a much more moderate person than he was, when I came down after him GBC was very anxiously waiting for me to come out and they said, 'How did it go?' 'Well,' I said, 'it could have been better. We have got strong differences, we have expressed our views but ...' and he said, 'But is it true that you called Mr Canepa' –

**Mr Speaker:** Mr Caruana.

725 **Hon. J J Bossano:** Mr Caruana, sorry. I beg your pardon, Mr Speaker. *(Laughter and banging on desks)* I have never called you anything all the time that we have been here together, ever.

I said, 'Yes, it's true, I did.' And then ... I think it was Stephen Neish who said to me, 'Well, why is it that you have not mentioned it when I asked you?' I said, 'Well, because you provide news and what I have called him is what the whole of Gibraltar knows he is, so it's not news.' *(Laughter)* I would have thought he would remember that, because this came out live on television. I will tell him what the word was afterwards, when we are out, so he does not miss the juicy bit.

735 So the answer is that it is not the case we set an agenda. That agenda, in fact, achieved most of what the GSD wanted, practically all of it, so I am not surprised that they say that they were happy with the result. In fact, what the GSD could not do on its own, we did. Of course, in 1999 the Hon. the Leader of the Opposition was neither here nor indeed in the GSD, because in the year 2000 he was not here at all, then that is why he missed the juicy bits then.

In 2000 he actually campaigned against them on the basis that I was being too soft. Notwithstanding what I called him, I was being too soft with the then Chief Minister and –

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**Hon. Chief Minister:** 2003.

**Hon. J J Bossano:** Oh, 2003, even later then. No, in 2000, of course, he was still with us, campaigning against him. *(Interjections)* Yes, he was with us in 2000.

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**Hon. Chief Minister:** In 1999 he was not here; in 2000 he was here – 2003.

**Hon. J J Bossano:** In the year 2000 he was still campaigning against the GSD.

750 **Hon. D A Feetham:** I wasn't campaigning with anybody in 2000.

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

**Hon. Chief Minister:** *Después de las elecciones.*

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**Hon. J J Bossano:** No, he was campaigning in 2000 against him because he supported the policies of the GSLP, he defended them publicly and he disagreed with the GSD. So he disagreed with everything we were doing in 1999 and in 2000. He then went, in an election in 2003, against them on the basis that I was too comfy in the Leader of the Opposition seat, that I wanted to stay there and I was not being aggressive enough, and therefore he tried to demonstrate how aggressive he was by going with a guy to New York and then joining his party when he came back. There you are. *(Laughter)*

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So, for all those reasons I feel I cannot support his amendment, Mr Speaker.

765 **Hon. D A Feetham:** Mr Speaker, my turn on the amendment.

**Mr Speaker:** Does any other hon. Member wish to speak on the amendment? No.

**Hon. D A Feetham:** My turn on the amendment.

770 Mr Speaker, I know that the hon. Gentleman thinks that I have been playing a central role in Gibraltar politics since 2000. He delights in reminding me that I was somehow campaigning on behalf of the GSLP.

775 I came back in 2000 and I think it took me about six to eight months to fall out with the hon. Gentleman – it did not take me very long for me to fall out with the hon. Gentleman! So there was not a lot of campaigning that I did as an ordinary member of his party since I was a little boy in short pants, as he has always delighted in reminding me, when I used to follow him and my father around – one cannot get around that.

780 But, Mr Speaker, just responding to some of the points that he has made, he has sought to correct what he says was a factual inaccuracy on my part that the constitutional process that was started in July 1999 with the establishment of the Select Committee in the House of Assembly for Constitutional Reform – that that did not have its genesis in the 1999 White Paper, but that it had its genesis elsewhere.

I refer the hon. Gentleman to the despatch, which is the despatch that accompanied the Constitution. It is signed by Margaret Beckett on 14th December 2006 and it reads as follows:

the starting point for the work to modernise Gibraltar's constitution was the invitation in the 1999 White Paper (Partnership for Progress and Prosperity: Britain and the Overseas Territories) to the Overseas Territories governments to submit proposals for constitutional reform. In July 1999, the Gibraltar House of Assembly constituted a Select Committee to report on Constitutional reform. The Committee published its proposals in January 2002. We formally received them in December 2003. These proposals were subsequently discussed between delegations from the UK and Gibraltar in November/December 2004, September 2005 and March 2006.

So, actually, the position is set out in the despatch enclosing the new Constitution to Gibraltar.

785 I do not know ... I have asked my colleague, Mr Llamas, to see whether he can ferret out the actual motion for the establishment of the Select Committee in 1999 to see whether there is any mention of that or whether it was mentioned in any of the speeches. Quite frankly, nothing turns in relation to this and it is not a die-in-the-ditch issue for us, that particular first paragraph.

790 Mr Speaker, the hon. Gentleman has also said that, for them, what was important was the delisting of Gibraltar, and that has always been clear – and that is important to me too, the delisting of Gibraltar. But the reality, as we have always said, whether you are or you are not a colony does not depend on whether the United Nations insist that you are listed in a list of non-self-governing territories. It is a matter of fact. It is about an internal relationship between Gibraltar and the United Kingdom and whether *de facto*, whether *de facto* you are a colony or  
795 you are not a colony, whether *de facto* you are self-governing or you are not self-governing. And *de facto* – as a matter of fact – as a matter of constitutional law, as a matter of constitutional fact as a matter of constitutional fact, Gibraltar is not a colony; it has a modern non-colonial relationship with the United Kingdom.

800 That the United Nations refuses, for its own political internal reasons, refuses to recognise that constitutional reality to me does not alter the legal constitutional position. Indeed, it is somewhat like being pregnant, I suppose: you are either pregnant or you are not pregnant, and Gibraltar has been nine months pregnant for the last I don't know how many years and has gone to the United Nations nine months pregnant and the Committee of 24 has refused to recognise, quite clearly, that pregnancy and quite clearly the fact that Gibraltar is not a colony. That has  
805 been the position and I refuse, and this party refuses, to acknowledge the position of the United

Nations by arguing that we are a colony simply because, for their own political reasons, they refuse to delist us. Because that, I think, weakens us; it does not strengthen us as a nation.

Mr Speaker, turning to some of the points that the Hon. the Chief Minister has made, I tried to keep my contribution, speaking on the amendment and the motion, as serious as possible, trying not to make party political or partisan points. The hon. Gentleman has quite clearly diverged from that approach by drawing attention to the fact that Robert Vasquez was one of the people who campaigned for 'No'. That may be so, but the hon. Gentleman opposite went from a no to a yes ... Sorry, I should say from a yes, because I remember quite clearly that the hon. Gentleman, the Father of the House, shook the hands of the leader of the UK delegation, saying that he was going to support it – that is my recollection; I was there – and publicly Mr Licudi, in a debate ... well, it was not a debate, it was a programme with a number of people giving contributions, and he said, 'We are going to be campaigning for a yes vote at the referendum,' only to go to a no three days later, and I think by the end of it they were saying publicly, 'You have got to vote with your conscience,' when all these polling booths were manned by GSLP activists actually telling people secretly, not openly, to vote against the new Constitution in the referendum just simply to give the Government of the day a bloody nose, because the Government of the day had invested quite a lot of political effort – in the interest of Gibraltar as a whole, it has to be said – in the adoption of this Constitution.

So I need no lectures from anybody, Mr Speaker, on this particular issue as to who is acting reasonably, who is acting unreasonably and who is acting in the public interest. I am disappointed, I have to say, because I have really attempted, together with my colleagues, to find a formula of words that allows us to participate in a select committee whilst at the same time recording what our position is and also recording what, in our view, is a reality, which is that there is this Referendum on 23rd June that may or may not be seminal and that may or may not necessitate some very fundamental changes to the Constitution. I was really hoping that I could come to this House today, that I could move these very reasonable amendments that do not seek to tie the Government down to any particular position, still less to tie the Government to *our* position, but certainly records what our position is very clearly, because our acceptance of this motion is implicit and explicit recognition that there is a need to review and reform the Constitution, and that is certainly not our position.

I remind the hon. Gentleman how the motion reads in its second paragraph, substantive paragraph, which says:

Considers that there should be a review of the 2006 Constitution by the Select Committee of this Parliament

We certainly do not accept that that is necessary. We accept it is the hon. Gentleman's position that there ought to be a review, and had he agreed to these very reasonable amendments we would have participated, but obviously we would have had the cover at the very least that our own position was protected, and that is all that we have sought to do with these amendments.

Mr Speaker, for all those reasons we will be voting against the motion.

**Mr Speaker:** Before I put the amendment to hon. Members, may I reiterate and explain in slightly more detail what I said earlier about how an attempt should be made to amend a motion.

I would urge, in future, hon. Members, when they wish to amend a motion, of which previous notice will have been given some time before in the Agenda, that they should consult the Clerk – and therefore, through the Clerk, me – to ensure that they get it right.

I say that supported by ... and I am sure the Hon. the Father of the House will testify to what I am saying, that between 1972 and 1992 there were 20, 30, 40, 50 ... a huge number of motions of a similar nature which very often were amended, and therefore over the years of my membership here in the House, and I am sure it has happened with Mr Bossano, we learned



855 from others, like Sir Joshua Hassan, Bob Peliza and the then Speaker, we learned about the process in which such amendments should be made.

I have looked through the amendment that should have been properly proposed by the Leader of the Opposition and it would not have been very, very difficult at all to actually set out what the amendment should be –

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**Hon. D A Feetham:** But I think it is more helpful this way, but next time I will do it this way.

**Mr Speaker:** Yes. But having said that, this is what it would have resulted in.

865 Therefore, what I am going to put to the House is that the Chief Minister's motion should be amended by the addition of the words which are set out in bold type in what would eventually have become the amended motion if it were to be accepted. All right? So it is the words in bold type that I am actually ... That is what constitutes the amendment and that is what I am going to put to the House. Those in favour? (**A Member:** Aye.) Those against? (**Several Members:** No.)

870 I take it that the amendment is defeated by Government majority, and therefore we are now back to the Chief Minister's original motion. The Leader of the Opposition has spoken on that motion. The Hon. Mr Bossano has spoken on the amendment, so he is therefore free to speak on the original motion and so are all other Members, after which the Chief Minister will have his right to reply.

875 Does any other hon. Member wish to contribute to the debate on the Chief Minister's motion? If there is no Member I will call upon the Chief Minister to exercise his right to reply.

880 **Hon. Chief Minister:** Mr Speaker, I think it is quite historic that the Opposition have set out, from the moment that the Hon. the Leader of the Opposition got up in this Chamber to speak on this motion a moment ago, that they will not be supporting a motion to review the current Constitution.

885 The hon. Gentleman tried to take us to a part of this motion where we said that we would, in fact, put forward reforms from that select committee – just as he was about to sit down – and he realised, I think, halfway through his point that he had got it completely wrong, that the motion as it stands does not actually commit anyone to do anything other than review the Constitution. And when he started going on about that paragraph he said, 'and of course it goes on about reform and review'. This only talks about review, whatever your position may be, and he set out his position, with which of course we do not agree, that the select committee that we have sought to establish today and that we will establish today does not bind him in to do anything – although it does do one thing, which is the Government's position: it binds us into review.

890 If they come to the conclusion in the select committee that there is nothing after that review that should be reformed and we agree with them, we come back together to this Parliament and we say there is nothing to be done.

895 If we believe that there is something to reform and they do not, it is not that they are stuck and come to this House with a report from the select committee and I am able to use their presence in the select committee to champion reform: they issue a minority opinion of the select committee, full stop. Full stop.

900 So, have they taken that option? No. They have taken the decision – which will have resulted, no doubt, in much rubbing of hands with glee outside of Gibraltar – not to support the legitimately elected Government of Gibraltar in a review of the Constitution, let alone a potential for reform.

He said, Mr Speaker, that the 2006 Constitution was a game changer. Well, I suppose it was to an extent.

905 **Hon. J J Bossano:** So was the 1969 one.

**Hon. Chief Minister:** So was the 1969 one, Mr Speaker, absolutely, and the one before that in 1964.

910 But I will tell him what was the biggest game changer, given that we are now going to get on to a debate of things that are *de facto* and *de jure* – and if they care to pay attention for a minute and stop tweeting or squeaking or Facebooking for a minute they might understand this point better, Mr Speaker. The game changer was the election in 1988 of a Government that delivered the constitutional advancement of Gibraltar *de facto* and which then, as a party in opposition, joined with the then party in government to deliver that *de jure* in 2006. Did the  
915 2006 cause the usual repatriated powers *de jure*? Of course it did, many of those, as the Hon. the former Chief Minister, sometimes referred to as the greatest Gibraltarian of all time, has said on more than one occasion because he recognised the work done by Joe Bossano after 1988 in that respect.

920 What else are they doing by their negative approach today? Well, Mr Speaker, they are thwarting the will of seven tenths of the people of Gibraltar, who have supported this position in a manifesto that they have selected.

925 Have we achieved or have we not achieved the maximum possible level of self-government compatible with British sovereignty? Mr Speaker, I do not understand how he believes that that is the case when he left Gibraltar with a negotiating team with a list with a hundred things on it and he came back with less than a hundred things. I am not even going to characterise it as 50 or 75 or 99: he came back not with everything that he went to ask for. Unless he was prepared to form part of a negotiating team that went to ask for things which were incompatible with British sovereignty – and I would assume that he would never have lent himself to that, Mr Speaker – then there must be things that are compatible with British sovereignty that were still in the list  
930 of things that could be achieved. We may together decide that there are some of those that we should achieve and seek to achieve; we may together decide that they are not issues that we need to be pursuing.

935 Mr Speaker, for the reasons the honourable, the former leader of the GSLP, and former Chief Minister and Leader of the Opposition Joe Bossano said, we supported them in 1999 when they set up the constitutional review Select Committee, but this is their approach today, not to support us, even though they might not entirely agree with the need for a review and even though we are not trying to tie them in to what the consequences and conclusions of that review should be.

940 He asked what the changes should be. Well, Mr Speaker, I have said what the types of changes that we might end up reviewing or proposing might be. I have said previously, when the hon. Gentleman has said on television that he would like a meeting with me to discuss in detail what it is that we are going to propose, that I think these are things that we need to do in a way that is accountable and objective. So I am surprised that somebody who accuses us of being opaque wants to be quite so opaque. I think we should do this review together here, that it  
945 should be recorded, that we should put our positions – and that if we come to a joint conclusion, great, and if we do not, so be it.

950 The United Kingdom has already indicated it is prepared to speak. The most recent documentation with the United Kingdom in relation to Overseas Territories talks about review of constitutions – or is it that he does not know that? But we are in an unprecedented situation, Mr Speaker. Seven tenths of the people of Gibraltar want there to be a review. The United Kingdom is prepared to engage with us in respect of that, and the Leader of the Opposition is not. He is the one who is not ready to talk. He is not ready to sit down and do an analysis of the Constitution.

955 He says in any event it should not be something that we pursue until after Brexit. Well, look, Mr Speaker, he has a much greater regard for the alacrity with which this House's Select Committee have ever been able to move than any of us have, because no Select Committee of this House has ever reached a conclusion, tabled a report and gone to the United Kingdom, if that were relevant to it, within four months. Nobody is proposing that we should do this before

960 the Brexit Referendum is over. This is a process we should start, and it will go through the Brexit  
 Referendum and beyond the Brexit Referendum. It is work for the lifetime of this Parliament. I  
 do not know where he gets it from that we are proposing to do this before the conclusion of the  
 Brexit Referendum is held. ‘Oh, people will say that I have been wise to put the Referendum first  
 and then the review second,’ he might think. Well, Mr Speaker, it is not about the Brexit  
 Referendum. The Brexit Referendum is knocking on our door; this is work to be done in the  
 965 lifetime of this Parliament.

The amendments which were proposed were clearly not an attempt at unity, but I will  
 nonetheless seek to move an amendment to give him an opportunity to continue to work with  
 us on this subject, and perhaps when he ponders what the political consequences ... let us just  
 say what the political consequences to him personally might be of not engaging in this process  
 970 with us, he might reconsider.

But I have never heard an analysis as flawed as the one that he has just done about whether  
 or not Gibraltar is or is not a colony being not a matter to which the United Nations position is  
 relevant. To hear a lawyer say that the international legal order is not relevant to the  
 international legal status of a territory is absolutely incredible. They might get uncomfortable  
 975 listening to it, they might not like what they are hearing, but the reality of international law –  
 not Spain’s position, the UK’s position or Gibraltar’s position, the reality of international law  
 today, whether we like it or whether we do not, whether we move to change it or whether we  
 do not, the reality of international law today is that Gibraltar is on the list of non-self-governing  
 territories, Mr Speaker –

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**Hon. J J Bossano:** For as long as it is there.

**Hon. Chief Minister:** – *de facto* and *de jure*. So, as long as the list of non-self-governing  
 territories is the criteria by which the United Nations determines whether or not a territory is  
 985 self-governing or not, that is relevant. You can give it more credibility or less credibility, you  
 might argue, but what you cannot argue with any shred of authority in international law – or  
 even in national law, which has regard to international law in respect of these matters – is that  
 the only thing that matters in determining the nature of the relationship is the internal rules and  
 situation within the state, in this case the United Kingdom, that reports to the United Nations. It  
 990 would be absolutely untenable for anybody to make that argument in any reasonable way in any  
 tribunal, national or international.

In pregnancy terms, Mr Speaker, (*Laughter*) although I think it is quite the wrong illusion, if  
 we turned up 50 years ago pregnant, we would most certainly not still be pregnant now.  
 Something would have gone very wrong indeed. (*Laughter*) A gestation period of 50 years would  
 995 produce something as anomalous perhaps as the fact that there are still some colonies in the  
 world today.

As the Secretary General of the United Nations said only last week, Mr Speaker, the  
 committee which is reconstituted again for this year needs to ensure it continues its work to  
 eradicate colonialism, and that means get rid of colonialism and ensure that there are no nations  
 1000 left on the list of non-self-governing territories.

You can take another attitude, which is what the hon. Gentleman has told us he would do  
 and he has set it out perfectly today: ‘Whatever the United Nations says, I am not going to deal  
 with it.’ Well, Mr Speaker, that has got a description *de facto*. It is called the ostrich syndrome,  
 and the hon. Gentleman has demonstrated that in the most serious aspect of the political  
 1005 international future of our nation – the decolonisation debate and the defence of our nation  
 before the United Nations – his is the ostrich approach. Well, Mr Speaker, he will be judged for it  
 politically by people.

But why is it a diversion, as he said, to look at the position at the United Nations? It is, in fact,  
 the international legal position with which we have to deal. Why is it a diversion from the  
 1010 seriousness and conviviality that the hon. Gentleman likes to pretend that he wanted to bring to

1015 this debate to refer to the fact that one of the people he stood for election with less than a  
hundred days ago had a position which is diametrically opposed to the one that he has set out  
here today, when he has said it is the GSD's position and this person stood for election not just  
with him but with the GSD? Well, it is a de facto reality, isn't it? That is what Robert Vasquez said  
1020 at the time. So I am not trying to sow diversion or division or do anything other than relate the  
facts as they are. And he said, 'Well, the fact is that some of you also said one thing – you shook  
a hand and you said something on a television programme.' Doesn't he remember that one of  
the important issues here, in terms of the exercise of the right of self-determination in a  
plebiscite of the people of a non-self-governing territory, was whether or not the referendum  
1025 was binding? And the words of the Attorney General, then a Member of this House, that he  
considered the referendum a non-binding facultative taking of opinion which was of no legal  
consequence? These things might be boring to some, but this is about the core of what matters  
in terms of the future, the constitutional and political future of our people. That was one of the  
issues which made us determine what our position was going to be in the Referendum.

1030 Mr Speaker, this has been today, as far as we have got, a cop-out of historic proportions. I do  
not think that this House will ever again see an Opposition fail to support the Government in  
doing a review of the Constitution – not in committing itself to anything, in simply accepting the  
result of the last General Election, something it is important that the hon. Gentlemen do. I heard  
the hon. Mr Bossano have to tell him he has to realise that he is not going to be ruling Gibraltar  
1035 from the Opposition benches. He has to accept what we were committed to in the election and  
the fact that that was chosen by the people, as we do, and we are totally bound by that and we  
will continue in the endeavour that the people of Gibraltar have chosen.

I hope that this ill-tempered debate will not be what prevails and that we will be able to  
move together to *review*, review – and maybe once I have said that enough times the hon.  
1040 Gentleman can have the comfort that I am not for one moment suggesting that he be bound  
into reform anything: *review* – the Constitution together. That is why I propose the following  
amendment to my own motion, notice of which I am happy for the hon. Clerk to provide in  
writing to you in the form which I think is the one usually required and the one that has always  
been used before. It will be to add at the end of the motion the following words: 'and in the  
1045 event that the Leader of the Opposition were to fail to nominate any Member to membership of  
the Select Committee within 21 days from the date of the passing of this motion, then to  
proceed with the work of the Committee with the Members nominated by the Chief Minister.'

Speaking on that proposed amendment, Mr Speaker, we are not going to fail to do the things  
that we have set out in our manifesto to do, whether in relation to the Constitution or  
1050 otherwise. But I want him to reflect on what has been said, and if we take away all of what it is  
that we have been arguing over he has said he does not want to be bound in to reform the  
Constitution, because it is not his policy to do so, and I have said, 'Don't worry, this is just a  
review.' He has tried to pretend that the motion as it stands says the opposite. It does not, and  
when he was doing the analysis he fell in trying to suggest the opposite.

1055 Well, now he has the chance with this proposed amendment to sleep on it and to  
nonetheless nominate two Members to this committee within 21 days from today's date, and if  
he does not do so the Government is then free to continue. And we want to continue by way of  
select committee because we want to do it in this House. We want them to form part of the  
select committee so that they are able to do so. We accept that their membership of the select  
committee would be with all the caveats that he has set out during the course of his speech  
1060 about not wanting to be tied into a reform. I have not indicated that we would be prepared to  
reform anything at this stage, only that we would want to consider reviewing, and that for the  
purposes exclusively of reviewing and with the ability to provide a minority opinion from the  
select committee in the event that they were not to agree with us on what the proposed  
reforms that might emerge from that committee, if any, were to be, that he should nominate  
someone for that purpose.

For that reason, Mr Speaker, I move the amendment in what I think is the traditional, proper and appropriate way:

*Add at the end of the motion the following words:*

*'and in the event that the Leader of the Opposition were to fail to nominate any Member to membership of the Select Committee within 21 days from the date of the passing of this motion, then to proceed with the work of the Committee with the Members nominated by the Chief Minister.'*

1065 **Mr Speaker:** I now propose a question, which is that the Chief Minister's motion be amended by the addition of the following words, namely:

and in the event that the Leader of the Opposition were to fail to nominate any Member to membership of the Select Committee within 21 days from the date of the passing of this motion, then to proceed with the work of the Committee with the Members nominated by the Chief Minister.

The amendment is now before the House.

1070 **Hon. D A Feetham:** Mr Speaker, the position of the Opposition continues to be exactly the same. This paragraph adds absolutely nothing to the substantive motion. It is in the nature of a gimmick that has long been, unfortunately, the hon. Gentleman's trademark, and it does not alter any of our very real concerns about this process and this particular motion.

1075 You do not undertake a review unless you yourself take the view that something needs to be changed. That is the point, Mr Speaker. Of course I accept that it is the hon. Gentleman's policy that the Constitution needs to be changed.

I have never said to the hon. Gentleman, 'Come to me and tell me exactly every single area that you feel needs to be changed,' but I said, 'Give me an idea.' The hon. Gentleman has not even been willing to do that.

1080 I have asked him to bilaterally meet with me, not because I want to deal with these matters off camera, away from public glare in a non-transparent way, but because I believe in dialogue and because I believe in sitting down and attempting to iron out problems. That is why I came to this House with amendments that were designed for us to be able to participate safely in this process, Mr Speaker. Safely in this process.

1085 Mr Speaker, of course the United Nations is undertaking currently a process to eradicate colonialism, but indeed the United Nations has described this decade as the second decade, or the third decade, I think it is, for the eradication of colonialism. In other words, there was a first decade, there was a second decade and there was a third decade.

1090 In relation to Gibraltar, the problem is not that Gibraltar has a modern Constitution. The problem is not that Gibraltar has a relationship with the United Kingdom that cannot by any stretch of the imagination be described as being colonial. The problem is not us. The problem is not our relationship with the United Kingdom. The problem is the United Nations and the problem is the pressure that Spain places on the United Nations and the loss of bottle by the Committee of 24, which does not want to anger and antagonise Spain. That is the reality. We  
1095 could go to the United Nations with a gold-plated, a gold-plated Constitution that ticked every single conceivable box and the United Nations would still keep us listed in the list of non-self-governing territories, because that is where Spain wants us to be.

1100 That is why my position is, and the position of this party is that we will not play into the hands of Spain by adopting a position that says that we are a colony simply because we are listed. *No, we are not.* No we are not. Indeed the position historically of Gibraltar has been that there may well be resolutions of the United Nations in relation to Gibraltar. Spain has argued in the international fora and politically that those resolutions somehow give her legal rights, and indeed the hon. Gentleman, Mr Bossano, the Father of the House, quite rightly pointed out in

1105 the late 1970s and early 1980s, I think it was the Strasbourg process had its genesis in those very same resolutions. That is why he took the view, rightly, that we ought not to be participating in that process, I think it was, because his position was, 'Well, look, the roots are those resolutions from the United Nations.'

1110 We refuse to accept the position of the Committee of 24 that constitutionally Gibraltar remains a colony. That is a matter of fact and law that involves looking at the reality of a situation in Gibraltar, just like it is common ground that Gibraltar enjoys the right to self-determination, and of course the United Nations, who could refer it to the International Court of Justice, and Spain, who could agree to refer it to the International Court of Justice, do not do so because they know that we are absolutely right.

1115 Mr Speaker, the fact that the United Nations keeps us listed in a list of non-self-governing territories does not affect that constitutional relationship that we enjoy with the United Kingdom, that cannot by any stretch of the imagination be described as non-colonial, because being a colony is a matter of fact and law and it involves analysing the Constitution and analysing whether the territory is a self-governing territory – and Gibraltar *is* a self-governing territory and we should not be listed, and we should not be listed by the United Nations in their list of non-  
1120 self-governing territories.

1125 Mr Speaker, I really came to this House hoping – hoping beyond hope, because I know that sometimes anything that I propose ... and I had toyed with the idea, I really had, of not taking the lead in relation to this particular motion and allowing one of my parliamentary colleagues to do so, but it is my duty as Leader of the Opposition, but I have toyed with the idea because I knew that the hon. Gentleman ... It is almost like a bull to a red rag every single time that I rise and I propose something that is reasonable. We wanted, we wanted, we wanted – and I want the position to be reiterated and for the position to be clear: we wanted to participate but safeguarding what is fundamental policy for the GSD and our position, and that is what this attempts to do.

1130 And Indeed Mr Speaker, and indeed, in order to give it one final opportunity, one final opportunity for the Opposition to participate, safeguarding our position, I am quite prepared for this motion, and I invite the Hon. the Chief Minister to adjourn this motion and for us to discuss it on Monday – we are meeting on Monday at three o'clock – to see whether a form of wording can be agreed between him and I in order to allow the Opposition to participate in  
1135 circumstances that our position is protected. I invite him to do so and I invite him to set aside whatever view he has of me and whatever is his desire to attempt to turn things around and distort in order to cause me, personally, political damage, which has been his modus operandi over many, many months and the last three years, in order to see whether this can prosper. And I invite him to do so, because if what he wants is for the Opposition to participate in a select  
1140 committee that furthers his policy, not ours, then I think that he ought to invest that time and political energy in sitting down with me in order to see whether a form of wording can be agreed to see that this prospers.

**Mr Speaker:** Does any other hon. Member wish to speak on the amendment?

1145 The Hon. Mr Bossano.

**Hon. J J Bossano:** With your permission, Mr Speaker, I feel that, since the arguments that have been put by the Leader of the Opposition have been the arguments in support for not participating in relation to what he considers to be the legal international position of Gibraltar – which is *totally*, totally and completely wrong, I can tell him, because it is not possible to argue that the de facto nature of the level of self-government determines the legal status of the territory, or indeed the relationship that exists between us and the United Kingdom.

We are on that list because the United Kingdom put us on that list. Jersey, Guernsey –

1155 **Hon. D A Feetham:** Pre-Constitution.

1160 **Hon. J J Bossano:** When the United Kingdom put us on that list we were under the Constitution of 1954, which was then changed in 1964, which was then changed in 1969. The constitutional changes we probably owe to Spain, because it all happened after Spain joined the United Nations and started claiming us. Indeed, in the United Nations on more than one occasion it was being argued by Spain that the changes that were taking place were precisely to create a quasi-independent Gibraltar and frustrate the obligation the United Kingdom had under the Treaty of Utrecht. But the reality of it is that the Charter of the United Nations is the only instrument of international law. That Charter has a signatory and that signatory is the United Kingdom, and the United Kingdom has chosen to go to the United Nations and say, 'I am the administering power of the non-self-governing territory of Gibraltar.'

**Hon. D A Feetham:** We had another Constitution then.

1170 **Hon. J J Bossano:** Yes, we had another Constitution then, but the fact is that in 1968 Bermuda got a Constitution which gives them more power than we have today, and that continues to be reported on by the United Kingdom as a non-self-governing territory for whom it is the administering power.

1175 So what do we have? We have a situation where the United Kingdom *every year, every year* repeats it. They did not just say it in 1954: every year the United Kingdom sends a report to the United Nations about its 11 colonies, or 10 colonies, and says, 'I, the administering power of Gibraltar, report what is happening in my Overseas Territory for which I am internationally responsible –

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

1180

**Hon. J J Bossano:** Of course.

1185 **Hon. D A Feetham:** I am very grateful to the hon. Gentleman because I think this is an important debate and the hon. Gentleman makes some very, very important observations and very important comments.

1190 But is it the hon. Gentleman's position that really the arbiter of whether we are self-governing or not self-governing is the United Nations? The arbiter of whether we have a Constitution ... and look, it is a question of degree and I think that at the heart of this there is a distinction, there is a difference between the hon. Members and us – which is why I want this reflected – which is that we believe that we have the maximum level of self-government short of independence beyond which there is only independence. That was the position that the former backbencher, the former Chief Minister, outlined on many, many occasions, and continues be our position, and I think that their position really is, no actually, we could go further than that. *(Interjection)* Well, that is what I am asking, because what I fundamentally disagree with is the notion that we are hostages to fortune of the United Nations in terms of characterising our own relationship. That is what really ... Even though I accept that the decision as to whether we are listed or not listed ... sorry, not whether we are listed or not listed, whether we are removed from the list is a decision for the United Nations.

1200 But if I am right, they are making decisions based on politics, they are not making a decision based on constitutional reality, so I would ask the hon. Member to perhaps clarify what his views are in relation to that, as I am genuinely interested in his views.

**Hon. J J Bossano:** Mr Speaker, the position –

1205 **Mr Speaker:** May I remind hon. Members that the actual amendment before the House has nothing to do with delisting by the United Nations; it is about the appointment of two Members within 21 days by the Leader of the Opposition.

**Hon. J J Bossano:** In speaking to the amendment to the motion I am not really trying to delist Gibraltar; I am trying to enlist the Leader of the Opposition into joining us. Therefore, I welcome the opportunity to give him an explanation. It is an explanation of what we have already publicly recorded in the UN and what I have said year after year in the seminars that I have attended in the Pacific and in the Caribbean.

He needs to understand that this is not a question of the Committee of 24 – there are now 28 of them in the Committee of 24 – as a matter of who are being free to remove us from the list or keep us on the list. The criteria of the United Nations, as the Chairman of the Committee of 24 said to the then Chief Minister on one particular occasion when he started criticising the Committee of 24 ... He said, 'Well, look, if you don't agree, or if the United Kingdom doesn't agree with the criteria that the United Nations has, then let the United Kingdom, as a Member State, come to the United Nations and propose a change in the criteria. We in the Committee of 24 don't make the rules; we apply them.' That is the position.

Although we have got people who are in the pocket of Spain, primarily the South American countries, we have still got strong supporters and friends in that Committee, and that has been no accident. That has been the years of hard work, persuading them that the presentation of Spain, which started in 1964 as puppets of the United Kingdom, was not a reflection of what the people of Gibraltar are. When the people of Gibraltar or the people of the Falklands go there and they say 'we are British and we are not a colony' to the people who are there to decolonise people they do not do themselves any favours. So the position that we have maintained is we have negotiated with the United Kingdom a Constitution that takes us as far on the road to decolonisation as the United Kingdom was willing to agree to, which is exactly the same position that they adopted with every single one of the other territories as a result of that 1999 White Paper.

But when he quotes, as he does, from the letter that was sent by the United Kingdom, it is what I told him: that they hijacked our process and stuck it with what they had initiated in the others. All the other territories were asked by the United Kingdom to bring in constitutional proposals. In the Turks and Caicos, which I mentioned earlier, Mr Speaker, to demonstrate to the hon. Member that it is not what it seems to be, having first described it as a non-colonial modern relationship, which was as far as it could go, having then suspended everybody, they then imposed a new constitution on the territory which gave them less powers than the one they had removed. I was asked by them to go over there and actually participate as an independent observer in the electoral process that brought the new constitution in, and then I was invited to go back a second time to explain to them how the parliamentary system works, because of my 40 years in the business.

So what I am telling the hon. Member ... It is very simple. This is not a question of the people who are in the pocket of the Spaniards doing the dirty on us; the question is that there is a Charter, there is a chapter 11, and that chapter 11 says there are territories that are not fully self-governing. Those territories that are not fully self-governing ... underwent a fundamental change in international status in the Charter of the United Nations because they stopped using the label of being a colony and they adopted the label of being a non-self-governing territory, and they stopped using the label of colonial power and they started using the concept of administering power on the premise – which is what the law says, what the international law says – that in those territories that were not fully self-governing the administering power was *in locus parentis* helping the people of the territory to progress. And we have progressed, and they have progressed in other territories.

The point at which the progress has reached the maximum that it can, consistent with the resources of the territory, with the relationship with the administering power or with any other criteria, is something that the Committee of 24 is required by the Charter of the United Nations to assess. The problem that we have got is not that they say we must stay as a colony; the problem that we have got is that they refuse to be engaged. When we have gone to the United Nations, we have not gone and said, 'We have decided that this decolonises us.' We have said,



1260 'Look, it's your responsibility: look at our Constitution, do the review' – the review that we are  
 saying we should be doing. We have said to the UN, 'You review this Constitution, and if you tell  
 us it is not the fullest attainable measure of self-government for a territory in the conditions of  
 Gibraltar, tell us where we are short,' and they do not answer. And the reason why they do not  
 1265 answer is because it would lock them into a situation where they would be accepting that the  
 constitutional changes of Gibraltar are legitimate steps in the progress to self-government.  
*(Interjection)* And the reason why they do not do it is because the United Kingdom agreed with  
 the Kingdom of Spain in the Strasbourg process, in the Lisbon process and in the 1984 Brussels  
 Declaration, all of which were condemned in Gibraltar at every inch of the way and at every step  
 1270 of the way originally and exclusively by the socialists and not by anybody else who was  
 defending them. Those are the things that have stopped us.

The reason why the United Nations does not move is because every year two things happen.  
 One, the UK says to us, 'You are not a colony anymore, you have now got the fullest possible  
 measure.' Then they go to the United Nations and say, 'Here is a report on my colony, which I  
 am required to submit under chapter 11 of the United Nations Charter.' And then they go to the  
 1275 Fourth Committee and they do a consensus with Spain which says, 'We must continue talking to  
 achieve the decolonisation of Gibraltar.'

Well, look, what is it that you are doing? Are you changing our Constitution to decolonise us,  
 or are you negotiating with Spain to decolonise us? That conflict, that incompatibility is where  
 the problem has been created, and regrettably it has been created because we did not stop it  
 1280 when we should have stopped it in 1964 with the Strasbourg process and the Lisbon talks in  
 1981. *(interjection)* Not in 1964, sorry, in 1976 when the Strasbourg process started. And  
 therefore we have now got, fortunately, a position of unanimity in this Parliament and  
 unanimity in Gibraltar that none of us will play that game ever again, that none of us will ever go  
 to sit down at a table where Spain and the United Kingdom are deciding what is our future and  
 1285 we are simply then, at the end of the process, informed of what is good for us. That, fortunately,  
 is history and I am convinced that no future generation of Gibraltar will permit that and no  
 political party, either the GSD under the leadership of the Member opposite or us under  
 whoever it may be – Fabian, or anybody who comes in future – or the Liberal Party will go along  
 with that line. So we have got a stronger position in Gibraltar constitutionally, fortunately, than  
 1290 we have ever had before, because there is at least on one fundamental point, which has been  
 the Achilles' heel, where we are completely united. The problem is that the United Kingdom is  
 stuck there and does not know how to extricate itself from that situation, so it says one thing in  
 the UN and then it says, 'But this is with the caveat that I will never actually do what the  
 consensus says, unless the Gibraltarians give me permission.' Given that that situation is there,  
 1295 we have been trying to get the United Nations to accept that they should review our situation in  
 terms of our Constitution and tell us, 'We don't accept it because what is missing is (a), (b) and  
 (c),' and I believe that we must continue to do that, even if they look the other way or put plugs  
 in their ears, because the moment they actually accept to do that we have hooked them.  
*(Interjection)*

1300 But what we are saying today, Mr Speaker, in my view honestly does not mean that we are  
 saying we are coming with an agenda to which we want to persuade the Opposition that we  
 want to declare UDI or we want to do anything else.

When I was sitting there, I actually gave a blank cheque to the GSD. If the Member looks back  
 at the motion that set up the Select Committee that led to the new Constitution, which was  
 1305 before the question of the 1999 invitation, the 1999 invitation was never mentioned to me at all  
 either before, during or after. It was mentioned for the first time by the United Kingdom side  
 after the process had started. But look, the reality of it is that the GSD had tried to get the  
 Constitution changed on its own without inviting the Opposition, and they got nowhere. And  
 because they got nowhere they then came to the House, and when they came to the House I  
 1310 said, 'Okay, well, we know what you want. You have got a range of things you want to change,  
 we have got *one* thing we want to change. We want to see self-determination and

decolonisation clearly reflected in that Constitution.’ The reality of it is that everything that we got was what the GSD had put down and the one thing we did not get was what we had put down.

1315

**Hon. D A Feetham:** Mr Speaker, I am very grateful to the hon. Gentleman for giving way again. I appreciate it and I do not want to overextend the debate.

1320

**Mr Speaker:** I am being very, very liberal – I hope hon. Members will realise that – in an attempt to try and reach a consensus, but please try to be brief in the points that you are making. At the very least try to be brief because we have a very limited amendment before the House.

1325

**Hon. D A Feetham:** I am very grateful, Mr Speaker.

1330

I quite understand the points that the hon. Gentleman makes. It strikes me, of course, taking the analysis to its proper and logical conclusion, that if he is right it does not really matter what we do here in Gibraltar in relation to our Constitution, because the decision as to whether to delist Gibraltar or not is a decision that is being taken by the United Nations, bearing in mind the position of the United Kingdom – which is the point that I have been making, with different emphasis, that it really does not matter whether we have a gold-plated Constitution in Gibraltar; it is not going to be accepted by the United Nations for political reasons. Because that is what it amounts to: it is a political decision by the United Kingdom, as he characterises it, bearing in mind what has been its long traditional position, going back to Strasbourg in I think it was the 1970s. (*Interjection*) Yes, 1976, and then Paris. (**A Member:** Lisbon.) Lisbon, I beg your pardon, and then of course the Brussels Declaration in 1984.

1335

But, Mr Speaker, I prevail to the Hon. the Father of the House, wearing his trade union hat, knowing how difficult issues are normally resolved by sitting down, by attempting to look at them and through compromise to perhaps prevail upon the Leader of the House to sit down with me and to attempt to find a way in which a formula of words can be agreed that properly protects our position and that therefore allows us to participate in a reasonable way.

1340

We are trying to be reasonable, but what we are not going to accept is a railroading of the position of the Opposition into participating under a form of wording that we do not feel comfortable with. I am absolutely certain, absolutely certain – and I say this with all the sincerity in the world; it may sound like a political point, but it is not, it is a factual point that I am making about something that I really do believe – that if the hon. Member was making these decisions, or indeed if the Deputy Chief Minister was making these decisions, I think that it would have been possible for us to sit down and to find a compromise, and that is what I urge upon the Leader of the House to do in order for us to move forward.

1345

**Mr Speaker:** Does any other hon. Member wish to contribute to the debate on the amendment before I call upon the mover, the Chief Minister, to reply?

The Hon. the Chief Minister.

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1355

**Hon. J J Bossano:** Mr Speaker, I was giving way. Let me say that in fact everything that I have said was to try and convince him that the dangers that he sees in joining do not exist.

1360

**Hon. Chief Minister:** So Mr Speaker, dealing with the points that the hon. Member has raised in his various interventions on this short amendment, it is clear that he is the one who sees a red rag when dealing with a particular politician – namely me – because he said that if he were dealing with Joe Bossano, whose falling out with whom led him to leave the party of his political heritage, form a new political party and then go to what he used to call ‘the dark side’, or with Joseph Garcia, it would all have been easier, but dealing with me is impossible. I am very sorry if I am a red rag to him; I really seek not to be.

1365 I am not asking him for a blank cheque, although Joe Bossano gave Peter Caruana a blank cheque 20 years ago. I am not asking him for that; I am just asking him to help me. Let me put it in terms that he might feel more flattered by: I am asking him to help me review it. I am not saying let's reform it; I am saying sit down with me and review it and then we can make a decision together on what it is that we go on to do.

1370 And I am not trying to railroad anything, Mr Speaker. There is no railroading to be done. He can issue a minority opinion if he is not happy with the conclusion of the select committee. It is very likely we will be, together, able to reach a consensus view in the select committee if he forms part of it. I am not going to railroad him into anything.

1375 This is not a gimmick, Mr Speaker. We can call each other everything that we like and people will judge us for that, and it is not good politics but people sometimes fall into the trap in the heat of a debate to go further than perhaps they might. That is, unfortunately, human. In my view it is not good politics but it is, unfortunately, human that when debates get heated the natural instinct is to defend, and therefore things might get out of hand. But this is not a gimmick, as he has described it; this is too important. This is the Constitution of Gibraltar. This is not necessarily about him and me, although for reasons I will get to he seems to think it is all about him. This is about the Gibraltar Constitution that we potentially leave our children and our children's children – unless they have the good sense to review it every 10 years, as I am suggesting that we should, Mr Speaker.

1380 If I may say so, the position that he has taken today is one that puts him on the wrong side of history, and history will judge him very harshly indeed for being the first Leader of the Opposition, indeed the first politician in Gibraltar's history, who has said that he will not even review something with the Government. This is an invitation. It is not a compulsive requirement that he reach any conclusion. I do not know how I can say it in any other way. This is an invitation to do that which he says he is prepared to do, which is sit down and dialogue and review. He says, 'I believe in dialogue.' Well, we all believe in dialogue, but I believe in honest dialogue, and the dialogue I am asking him for, the assistance that I am asking him for is to sit down with me and one of his colleagues and to review a document that is our Magna Carta – and he is turning his back on that, pretending that I am asking him for more. I am not asking him for that blank cheque or sticking him to any reform, Mr Speaker.

1395 Of course I have my own personal views of what might potentially need to be addressed in the Constitution, but they are not fixed views and I would like to have other people's opinions on them: people in the select committee, people from the rest of this community who I think need to form a part of this process. The select committee should take evidence from the public, as I have said, and I want the benefit of that consultation and that dialogue, and I want him to form part of that process with me, Mr Speaker.

1400 So if he says I see a red rag to a bull when I see him he needs to ask himself why I am trying to involve him in this. Again, he set out his position. How can I pretend that his membership of the select committee is anything other than based on the position that he has set out already during the course of today and had already been the case that he had set out before?

1405 Mr Speaker, frankly, I was going to deal with the issues about whether we are or are not a colony if we turned up with a gold-plated Constitution, but I think the Hon. Joe Bossano has dealt with it better than anybody else can – certainly better than I could, given his almost 50 years' experience in this subject. But he did say something during the course of his intervention. When he was talking about the committee he said, 'Well, if we turned up with a gold-plated Constitution in New York, even then we would be turned down.' There is almost implicit in that the suggestion that we have not turned up with a gold-plated Constitution in New York, and if that is the case why does he not sit with me, with the Deputy Chief Minister and with the Hon. Joe Bossano, who are going to be the people I am going to nominate to form part of this committee to have this discussion and to work out together how we better review the Constitution for that purpose amongst so many others?

1415 Mr Speaker, we want to move on from what has been this ill-tempered debate and get to the stage where we are able to work together. This is very important. I do not want to cause him political damage. I think he does that to himself all the time, all on his own. It is not about him. I want him to form part of the committee and I want him to do so with all the caveats that he has set out in the context of his speeches today, just to do this review with us.

1420 Mr Speaker, last night he was re-elected as leader of his party for another four years. I am delighted to congratulate him in that respect. I am very happy he is going to be the leader of his party for the next four years and at the next General Election. He knows that I think that is good for me and good for this party, but it is not about that. This is about the Constitution of Gibraltar. This is about whether together we undertake – and I am going to be very specific in the wording again – undertake a review exercise or whether we do so without them, not about sticking to any reforms. And so, Mr Speaker, the amendment that I move allows him 21 days to nominate someone to this committee. I sincerely hope that with honest and genuine dialogue, in good faith and in good will, we will be able to meet – we are going to meet on 7th March; I think that may be Monday – we are able to meet in a way that persuades him to nominate someone in that period to review without being stuck with any requirement to reform. And I would ask that in the context of what happens between now and then we are temperate in our approach, so that we leave open the possibility that when we meet we can come to a conclusion which is a happier one for our community than to have them exclude themselves from a review. And so, Mr Speaker, I commend the amendment to the House.

1435 **Mr Speaker:** I now put the Chief Minister's amendment to the House. Those in favour? (**Several Members:** Aye.) Those against? (**Several Members:** No.) Carried by Government majority.

1440 I will now put the motion as amended to the House. Those in favour? (**Several Members:** Aye.) Those against? (**Several Members:** No.) The motion as amended is carried by Government majority.

**Select Committee on Parliamentary Reform –  
Committee established**

**Mr Speaker:** The Chief Minister now has another motion on the agenda.

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

1445 **Chief Minister (Hon. F R Picardo):** Mr Speaker, I have the honour to move the motion standing in my name which reads as follows:

This House:

Recalls that a Select Committee on the Implementation of the Recommendations of the Independent Commission on Democratic and Parliamentary Reform (known as the Select Committee on Parliamentary Reform) was established by Motion of this Parliament on 4th June 2013;

Notes that the said Select Committee was composed of three Members nominated by the Chief Minister and two Members nominated by the Leader of the Opposition;

Resolves that a new Select Committee with the same terms of reference should be established and that it should continue its work seamlessly from the point where the Select Committee established on 4th June 2013 left off;

Hereby approves the appointment of the Hon. Fabian Picardo MP QC (Chairman), the Hon. Dr Joseph Garcia MP, the Hon. Neil Costa MP, the Hon. Daniel Feetham MP and the Hon. Elliott Philips MP to the said Select Committee.

1450 Mr Speaker, I intend to say very little in respect of this motion. It is a motion which is self-explanatory and it is about the work that needs to be undertaken by the Select Committee, which is described in the terms of the motion.

**Mr Speaker:** I now propose the motion in the terms moved by the Chief Minister.  
Does any other hon. Member wish to contribute?

1455 **Hon. D A Feetham:** Mr Speaker, yes.

I have discussed this particular motion with the Hon. the Deputy Chief Minister, and the Opposition will be participating and the Opposition will be voting in favour of this motion. But I do have a few words that I wish to say on this and I wish to say about the work of the Select Committee.

1460 I remind Members of the House that the original motion that formed the Select Committee, the final paragraph read as follows:

We will refer the said report –

– the report by the Independent Commission, that is –

to a select committee on the implementation of the recommendations of the Independent Commission on Democratic and Parliamentary Reform, to be known as the Select Committee on Parliamentary Reform, which is hereby established to include three Members appointed by the Chief Minister and two appointed by the Leader of the Opposition

– and this is what I want hon. Members to emphasise to the House and for hon. Members to understand –

to consider the implementation of appropriate

– of *appropriate* –

recommendations of the report.

1465 It was something that was emphasised during the course of the debate that of course the work of the Select Committee in considering the report by the Independent Commission does not bind the Select Committee into accepting any part of those recommendations, and that indeed it is for the Select Committee to consider what appropriate recommendations are in the report for implementation.

Indeed, I refer the Hon. the Chief Minister to his own contribution to the course of the debate, where he said as follows after it was raised by the then hon. backbencher, Sir Peter Caruana, where he said:

1470 We do not want to use language which assumes that they are all acceptable and we are just going to discuss the implementation of them.

1475 Mr Speaker, the reason why I also make this particular point is this: the hon. Members have decided to bring, and we will debate that particular Bill in due course ... have decided to publish and will bring during the course of the next session of Parliament a Bill that proposes to amend the pension entitlements of Members of Parliament.

1480 **Mr Speaker:** I –

**Hon. D A Feetham:** Mr Speaker, it is a perfectly –

**Mr Speaker:** No. I will tell you why I am not allowing you to speak on that. I will tell you why.

1485 **Hon. D A Feetham:** I am not speaking on that. I am actually giving my view on what the work of the select committee is, and I am going to refer back to part of the debate. I am placing it in context, Mr Speaker.

1490 There is a Bill that is going to be brought to this House which proposes a change to the pension entitlements of Members of Parliament. It does not affect Members of the House, Members of the Government, it does not affect me, it does not affect Mr Reyes. It affects five Members of the Opposition. During the course of the motion setting up the Select Committee the Hon. the Chief Minister said:

Well, Mr Speaker, we think that taken together we agree with both these recommendations.

That was the recommendation ... I will read the recommendation:

We recommend that any new pension scheme should come into effect for new Members of Parliament elected after the next election, thereby safeguarding the acquired rights of current Members.

1495 That was the recommendation of the Independent Commission. And then, commenting on that, the Hon. the Chief Minister said:

Well, Mr Speaker, we think that taken together we agree with both these recommendations. Given that this Parliament having in effect made changes, for example, to the Civil Service Final Salary Pension Scheme, it would be rather unfair not to look at what new scheme might be introduced for Members who might be elected after the next General Election. This is certainly something, in our view, that we should refer to the Select Committee for it to determine who best to advise us on the matter.

In other words, his view was it should go to the Select Committee.  
And then he said:

Our own initial view is that new Members of Parliament after the next General Election should be on the scheme – I think it is the Provident scheme – as new entrants to the Civil Service, for example. That seems fair and equitable to us but we agree that this should be considered objectively with independent persons, as was previously the case when allowances were reviewed in the 1970s.

1500 Mr Speaker, we have been debating about the motion on constitutional reform and that we are not being led by the nose in relation to any particular matter, it is just a review; but I want to remind Members of the House that the initial terms of reference was that any of those recommendations that were going to be adopted should be considered by the Select Committee. That does not mean that the Opposition has a right of veto over anything that the  
1505 Select Committee recommends or does not recommend we adopt, because they have got a majority and we have got a minority, but certainly it ought to be considered within the context of the Select Committee. And of course in that context the Bill that we are going to be debating in a month and a half's time is a ... Are we going to be taking it now? Oh. Are we going to be taking it now? Well, I am very grateful for that. I thought it was going to be the next –

1510

**Mr Speaker:** [*Inaudible*]

1515 **Hon. D A Feetham:** Yes, I know, but, Mr Speaker, it is proper that I raise it in this context, because there is a Select Committee, it was quite clearly set up to consider appropriate recommendations, there has been no decision by the Select Committee and no recommendation by the Select Committee that we adopt this particular recommendation. The Government has decided to unilaterally go it alone and to bring a Bill to Parliament in order to

1520 unilaterally change the pension entitlements of Members of Parliament that affects five  
Members of the Opposition only. It does not affect anybody else currently within this Chamber.  
That is why I take great care, great care, great care in what the Opposition agrees to in these  
motions. We have had the debate on constitutional reform a few moments ago, but certainly I  
want to reiterate that our participation is on the basis that it is for the Select Committee to  
consider what recommendations of the Independent Commission are appropriate or are not  
1525 appropriate. We are not going to be led by the nose by the Government into a situation where  
we are just there for show, as furniture, without participating in the decision-making process. I  
do not think that is fair and I do not think that is the way that these Select Committees ought to  
be conducted. And by the looks of it – and there are amendments to pension rights for Members  
of Parliament – bearing in mind the comments that he made during the course of the debate,  
that is precisely what is happening.

1530

**Mr Speaker:** Does any other hon. Member wish to contribute to the debate?  
I call upon the mover to reply.

1535 **Hon. Chief Minister:** Mr Speaker, I see that the ill temper is going to affect everything we  
deal with this afternoon. I do not know quite what it is that is wrong with him.

Mr Speaker, he is not furniture, because we decide to progress our own views of what should  
be happening and when it should be happening. There are many aspects of the report of the  
Independent Committee on Reform which we have already implemented. We are on television  
because we implemented that recommendation, which was also our policy. We meet once a  
1540 month because we believe it is right that we should meet once a month, except for one month  
for Easter and one month for summer. And we are not bound to only implement those aspects  
of the Independent Report which hon. Members agree with. We could implement some of them  
today and some of them not today. We have already moved on some aspects which deal with  
the Register of Members' Interests etc. We have tabled the Code of Conduct.

1545 Mr Speaker, that is the way that we are going to continue to handle this matter. We are going  
to continue in the Select Committee with them considering those issues which are appropriate  
to be considered there, and if the Government believes that it needs to do something which is  
recommended by the Independent Committee on Parliamentary Reform before the Select  
Committee decides, then we will do it and we will bring it to this House and we will defend it in  
1550 this House. And they may support it or they may not support it, Mr Speaker.

It is up to him whether he supports this motion in the ill-tempered manner that he has, or  
not. I have certified the Bill on Members' pension provisions as urgent, for reasons that will  
become apparent when I speak on that motion, and I think on reflection they will welcome what  
I am doing. I will explain the position and they will understand that I believe I am putting them in  
1555 a better position than they are today, and once they understand that they may take a different  
view even of this and the position they have taken on the Select Committee on the Constitution.

Mr Speaker, I do not want to pre-empt something else that is on the Order Paper, so I  
commend the motion to the House.

1560 **Mr Speaker:** I now put the question in the terms of the motion moved by the Chief Minister.  
Those in favour? (**Members:** Aye.) Those against? The motion is carried unanimously.

I think this is a useful juncture, since we are now supposed to go on to Bills, that since I have  
heard talk about the House meeting on Monday, I wish to have from the Leader of the House  
some clarification as –

1565

**Hon. Chief Minister:** *[Inaudible]*

**Mr Speaker:** No?

1570 **Hon. Chief Minister:** We are meeting on Monday.

**Mr Speaker:** Ah, it is not the House?

**Hon. Chief Minister:** No.

1575

**Mr Speaker:** And therefore is it the Chief Minister's intention that we conclude the business today on the agenda, the Bills? In that case, given that in the House of Commons the Speaker is not required to sit for more than two hours because they have Deputy Speakers – you might put that in the notebook about constitutional reform (**Several Members:** Hear, hear.) – and given that I have now been sitting for two and a half hours, and I am sure we all require a comfort zone, the House will recess for 20 minutes.

1580

*The House recessed at 5.30 p.m. and resumed its sitting at 5.55 p.m.*

## BILLS

### FIRST AND SECOND READING

#### Supplementary Appropriation (2014/2015) Bill 2015 – First Reading approved

**Clerk:** Bills – First and Second Reading.

1585

A Bill for an Act to appropriate further sums of money to the service of the year ended 31st day of March 2015.

The Hon. the Chief Minister.

1590

**Chief Minister (Hon. F R Picardo):** Mr Speaker, I have the honour to move that a Bill for an Act to appropriate further sums of money for the service of the year ended the 31st day of March 2015 be read a first time.

**Mr Speaker:** I now put the question, which is that a Bill for an Act to appropriate further sums of money to the service of the year ended the 31st day of March 2015 be read a first time.

1595

Those in favour? (**Members:** Aye.) Those against? Carried.

**Clerk:** The Supplementary Appropriation 2014-15 Act 2015.

#### Supplementary Appropriation (2014/2015) Bill 2015 – Second Reading approved

**Chief Minister (Hon. F R Picardo):** Mr Speaker, I have the honour to move that the Bill be now read a second time.

1600

I thank the hon. Clerk for pointing out that this Bill, when it is passed, will pass in 2016 and that therefore in committee we will need to amend the long title for that reason. This is a Bill that comes from a publication last year.

Mr Speaker, the purpose of this Bill is to appropriate further sums of money to meet Government expenditure incurred during the year ended 31st March 2015.



1605 Hon. Members will note that in past years requests for approval of supplementary appropriations have been brought to this House as part of the main Appropriation Bill for the year. For example, the supplementary funding requirements for the financial year 2013-14 were included as part of the main Appropriation Bill for the year 2014-15 and the supplementary funding requirements for the financial year 2012-13 were included as part of the main  
1610 Appropriation Bill for the year 2013-14.

Because the main Appropriation Bills for the year are normally now debated in this House at around June or July of each year as part of the Budget session, this has meant that the annual audited accounts for the previous year have necessarily been delayed until the approval of these supplementary appropriations and the Principal Auditor has not been able to complete his audit  
1615 of the annual public accounts until then.

In order to enable the Principal Auditor to complete his audit of the annual audited accounts earlier and for these annual accounts to be laid in the House on a more timely basis – something I am sure will be welcomed by some, Mr Speaker – the Government has decided to revert to the earlier practice of presenting the Supplementary Appropriation Bills separately. These will  
1620 therefore no longer be included with the main Appropriation Bill for the year. The practice in future will be that the Supplementary Appropriation Bills will be published earlier and within the statutory nine months after the close of each financial year prescribed for the submission of the annual accounts to the Principal Auditor under section 52 of the Public Finance Control and Audit Act.

1625 Mr Speaker, this Bill is therefore the annual Supplementary Appropriation Bill required to provide appropriation cover retrospectively for the outturn figures for the year *ended* 31st March 2015 – that is the financial year 2014-15.

The outturn figures for 2014-15 have, of course, already been published in the Estimates Book for 2015-16 and the estimated breakdown of these additional expenditure requirements is therefore already available to hon. Members. The forecast outturn figures in the Estimates Book were based on the latest estimates available at the time, and, although these were quite accurate, in view that they were prepared towards the end of the financial year, the figures now included in the Supplementary Appropriation Bill are based on the final and confirmed expenditure that has been incurred and which is now available following the closure of the  
1630 Government's accounts for the year.

Hon. Members should note that in the case of the £16.2 million required to cover the additional expenditure incurred under the Consolidated Fund, this represents the amount required in addition to the supplementary provision of £9 million that is already included in the approved Estimates Book under head 43, which is the supplementary provision head. And let's  
1640 be clear, Mr Speaker, it is not an *extra* £16.2 million; it is £16.2 million moving not from one head to another, because that can be done by simple virement, but it is £16 million between Departments, and in particular in the year of the reshuffle when bits of Departments also moved with Ministers.

A full breakdown of the £25 million, which is the £16.2 million and the £9 million of reallocations to be made from head 43, will be tabled in the House at the next session of the Parliament, as is the usual practice. This will provide hon. Members with a full and detailed breakdown of the heads and subheads for which this supplementary provision has been applied.

Mr Speaker, I commend the Bill to the House.

1650 **Mr Speaker:** Before I put the question, does any hon. Member wish to speak on the general principles and merits of this Bill?

**Hon. R M Clinton:** Mr Speaker, I welcome the hon. Member's initiative in bringing the Supplementary Appropriation Bill in a more timely manner such that the Principal Auditor is then in a position to sign off on the annual accounts in a more speedy manner.  
1655

I have, in fact, of course, looked at the estimates and the outturn. I just have a slight difficulty with the reallocations being presented in the next meeting of the House, because without that statement, which in the past ... certainly in the meeting of 25th July 2015 they were presented all together. So we find ourselves today in the position where we are being asked effectively to

1660 approve a £16.2 million 'overspend', is another way of putting it, comparing it to the estimates without having sight of which heads of expenditure that relates to. Again, I refer back to the meeting of 22nd July 2015, where these were presented together.

Mr Speaker, this should come as no surprise to the Chief Minister, because I did in fact write to him in February before the meeting of this House – 17th February, in fact – saying:

As regards the Supplementary Appropriation Act, I would be grateful if you could supply Parliament with a breakdown by departmental head of the £16.2 million required to meet additional departmental Consolidated Fund expenditure, as I cannot identify this from the 2015 estimates and 2014 outturn.

1665 So I find myself in the unenviable position of having to look at or effectively de facto being asked to approve for the Government a supplemental requirement of £16.2 million with no information whatsoever as to what this relates to. That, as you will appreciate, puts us in a rather invidious position.

The other elements on the Supplementary Appropriation Bill which I *have* been able to

1670 identify from the Estimates Book, and they are quite obvious in that you have the £29.9 million going to community care and the £3.6 million exceptional expenditure, which was in relation to the Giraldi Homes inquiry, and the other supplementary appropriation of expenditure in relation to the Health Authority for £7 million, and the other elements are probably not material, really, for us to worry too much about.

1675 But I really must emphasise that I am somewhat surprised that we do not have the Consolidated Fund reallocations from head 43, as we have had in previous years, especially since I did specifically request clarification on this point from the Chief Minister prior to the meeting of this House.

Therefore, Mr Speaker, whereas we know, or have an idea, what the other supplemental

1680 appropriations are in relation to, we really are completely blind on this £16.2 million, which, if you take it with the £9 million, is effectively £25.2 million of expenditure. Now Mr Speaker this is effectively and although it is after the event, in that this money has already been spent, we are effectively talking about an overspend on an estimate in the Budget. I would expect that we would have somewhat more information as to which heads this expenditure relates to. And we

1685 are not talking small amounts. We are not talking £1, £10, £100,000, £10,000 – we are talking something in the order of £25 million. I would have hoped that, given my letter in advance and given the previous practice in this Parliament, that the Consolidated Fund reallocations would be provided with this Appropriation Bill – which, sadly, today we have not.

So it is going to be very hard for me to recommend to my parliamentary colleagues on this

1690 side of the House to vote in favour of appropriation amounts which we have no sight of or have any idea of what the amount is. I think it would only be fair to this Parliament, for everybody, including his own Members on his side, to know what it is that this additional expenditure on the Consolidated Fund is in relation to. I can see that the Financial Secretary is in the House today and I would hope that he would provide the information to the Chief Minister. Without that

1695 information, Mr Speaker, I am afraid that I will have to advise my colleagues to vote against.

**Mr Speaker:** Any other hon. Member wish to contribute to the debate on the Second Reading of this Bill?

I call upon the mover to reply.

1700 **Chief Minister (Hon. F R Picardo):** Mr Speaker, I am surprised that the hon. Gentleman is surprised, because I wrote to him in reply to his letter and set out what the position was in respect of the provision of this additional amount. I sent my letter to the hon. Gentleman, to his

1705 address at College Lane, and I copied my letter to Mr Speaker – I believe it went out on Monday; it was certainly signed out by me on Monday – and I set out there ... I will give way in a moment. I set out there that the practice, as I had understood it, was that this was tabled at the next meeting of the House after the passing of this Supplementary Appropriation Bill.

I will give way on the issue of the letter now, Mr Speaker.

1710 **Hon. R M Clinton:** I thank the hon. Gentleman for giving way.

Mr Speaker, I have received no such letter to date. I do not know if it was sent by messenger or by post, but certainly I have not received that letter.

I suppose I cannot really talk about what he just said about the tabling, because certainly in previous parliamentary sessions they have been tabled together – but I will let you continue.

1715

**Hon. Chief Minister:** So Mr Speaker, my understanding of the position is that they are tabled after the debate. That is the position that has been put to me and that is what will happen. The hon. Members will have a full and detailed breakdown of this amount.

1720 The hon. Gentleman has said something that I think it is important I should deal with, which is that this is an overspend. I do not want anybody to go away with the idea that this is additional money. This is money that is moving from one part of the book to another part of the book. So that hon. Members understand, if there is a movement within a Department, then that is done by a document called a virement. That is a document that does not require that we come and legislate in this House; it is a document that we table in this House, and hon. Members  
1725 have been able to see it. If there is a saving in one part of a Department and there is an over-expenditure in another part of a Department, that requires a supplementary appropriation of this sort, and that is what we are doing. This is not £16.2 million of extra money; this is £16.2 million moving from one place to another in the book. That is why I made the point that we were dealing with a reshuffle in that year, and the reshuffle actually also moved some parts  
1730 of Departments that followed Ministers and there was therefore some overspending in some Departments as Ministers took some responsibilities with them from one Department to another. Hon. Members will be able to see that in detail when we table the exact genesis of this £16.2 million at the beginning of the next meeting of the House, Mr Speaker.

1735 My letter dealt with one other matter, which is the Bill that is later in the Order Paper. I will try and see whether it is possible to obtain a copy and let the hon. Gentleman have it as soon as possible. I am very surprised that he has not got it, because I think most of my letters go by hand – and it went to his College Lane address – but I will follow up exactly where it is. The House has not got it either? Well, I am very surprised, because I did sign it and my letters tend not to go astray, but I will make sure that we get a copy of it to him straight away.

1740

**Hon. R M Clinton:** Thank you, Mr Speaker.

**Hon. Chief Minister:** Mr Speaker, I think I do need to say formally that I will be moving the amendment at the Committee Stage to the long title.

1745

**Mr Speaker:** I now put the question, which is that a Bill for an Act to appropriate further sums of money to the service of the year ended the 31st day of March 2015 be read a second time.

Those in favour? (**Members:** Aye.) Those against? Carried.

1750

**Clerk:** The Supplementary Appropriation 2014-2015 Act 2015.

**Supplementary Appropriation (2014/2015) Bill 2015 –  
Committee Stage and Third Reading to be taken at this sitting**

**Chief Minister (Hon. F R Picardo):** Mr Speaker, I give notice that the Committee Stage and Third Reading of the Bill be taken today, if all hon. Members agree.

1755 Mr Speaker, before you put that question, can I just advise Members that, given the number of Bills that we have and one other motion, they should make arrangements to be here until we get through the order of business today. I do not know whether it will take long or not long, but I know some of them have other responsibilities outside the House and they may want to make those arrangements.

1760 **Mr Speaker:** Do all hon. Members agree that the Committee Stage and Third Reading of the Bill be taken today? (**Members:** Aye.)

**Gibraltar Savings Bank (Amendment) Bill 2016 –  
First Reading approved**

1765 **Clerk:** A Bill for an Act to amend the Gibraltar Savings Bank Act.  
The Hon. the Chief Minister.

**Chief Minister (Hon. F R Picardo):** Mr Speaker, I have the honour to move that a Bill for an Act to amend the Gibraltar Savings Bank Act be read a first time.

1770 **Mr Speaker:** I now put the question, which is that a Bill for an Act to amend the Gibraltar Savings Bank Act be read a first time.  
Those in favour? (**Members:** Aye.) Those against? Carried.

**Clerk:** The Gibraltar Savings Bank (Amendment) Act 2016.

**Gibraltar Savings Bank (Amendment) Bill 2016 –  
Second Reading approved**

1775 **Chief Minister (Hon. F R Picardo):** Mr Speaker, I beg that the Bill now be read a second time.  
This Bill is a very simple Bill as published, which simply changes the definition of 'Minister' who, with responsibility for the Gibraltar Savings Bank ... as the Minister for Public Finance too, the Minister being the Minister for the Gibraltar Savings Bank, so that a particular Minister can be designated with specific responsibility for the Savings Bank and be read as being the Minister with that responsibility in terms of the workings of the Act.

1780 It is self-explanatory. Hon. Members have seen this Bill published for some time now and I think it is very clear. As the explanatory memorandum says, the Bill amends the definition of Minister in the Gibraltar Savings Bank Act, as I have just set out.

1785 We are going to move some amendments at the Committee Stage in respect of other matters that will be dealt with, and I think the hon. Member who I have designated with responsibility under the particular directions under the Constitution to have responsibility for the Savings Bank will be tabling those amendments, Mr Speaker.

1790 **Mr Speaker:** Does any hon. Member wish to speak on the general principles and merits of the Bill?  
The Hon. Mr Roy Clinton.

**Hon. R M Clinton:** Thank you, Mr Speaker.

1795 The Bill is, as the hon. Member has just said, quite a simple amendment. My understanding of the Savings Bank Act is that the Minister, who previously would have been the Minister for Public Finance, has the ability to amend the rules of the Savings Bank, which of course is entirely right and proper if you have a Minister who is the Minister for the Savings Bank.

1800 Perhaps tongue in cheek I should say that there would have been no need to amend this legislation if in fact the Hon. the Chief Minister had made the Minister who is in charge of the Savings Bank the Minister for Public Finance, and then there would be no need for this Bill at all. But that is as it is, and perhaps in future he will consider that.

We have no problem with the Bill as it stands.

**Mr Speaker:** Does any other hon. Member wish to speak?

I call upon the mover to reply.

1805 The Hon. Mr Bossano.

**Minister for Economic Development, Telecommunications & the GSB (Hon. J J Bossano):**

1810 Clearly, Mr Speaker, the hon. Member who has spoken for the Opposition is so happy to see me in charge of the Savings Bank that he is willing to support the Savings Bank Act being changed to make it possible for me to be the Minister responsible, or alternatively for me to be made responsible for Public Finance, although I am responsible for the Savings Bank.

I must say that it has come as a pleasant surprise that he is such a fan of mine in the Savings Bank, given the apparent criticisms that he has of the Savings Bank to date. Maybe I am gradually persuading him and I am doing a better job than was previously thought.

1815 I am taking the opportunity – since I have now got formal responsibility, whereas before really it was delegated by the Minister of Finance to me – to insert a number of amendments at the Committee Stage, and I will explain the purpose of each of those amendments but I can tell the hon. Member that they are, in effect, dealing with some of the things that he has raised in the past.

1820

**Mr Speaker:** Does the Chief Minister wish to reply?

**Hon. Chief Minister:** Yes, Mr Speaker.

1825 The Hon. Mr Bossano is too long in the tooth for me to have to tell him to beware of Greeks bearing gifts! (*Laughter*) But given that there has been a tongue-in-cheek part to the intervention by the hon. Member, let me respond to him.

1830 The Minister for Public Finance has responsibility in relation to a number of pieces of legislation, and in some instances as Minister for Public Finance I will be retaining those responsibilities, but in some instances I believe it is appropriate to have the ability to designate a different Minister to do certain things, who may or may not also at any particular time be the Minister for Public Finance, the Chief Minister or otherwise. I could designate the Minister for the Environment to also be the Minister for the Gibraltar Savings Bank once this amendment is done, and that gives you the business efficacy in Government – (*Interjection and laughter*) You would not need to persuade me, Mr Speaker, by telling me that he is anything other than one of my most responsible Ministers, as they all are, and that he and Mr Clinton would go off and erect a huge monument to the 200th anniversary of the Alameda, if they were allowed to. (*Laughter*) But this gives business efficacy also not just to the business of the Savings Bank but to the business of Government in being able to designate a particular individual with responsibility for that particular area, without being stuck with a ministry that has all of those additional responsibilities already provided for.

1840

It is an exercise that was also done by the previous administration in some areas, and I think it is one which is useful to do when we are dealing with issues – because, for example, I have designated and I have said Mr Bossano under the Constitution to have that responsibility. He has

1845 it, but when it comes to making changes I would be the one who needs to sign documentation to  
change the rules. We cannot change the legislation in that way, it requires the sanction of this  
Parliament and that is why we have brought the Bill.

**Mr Speaker:** I now put the question, which is that a Bill for an Act to amend the Gibraltar  
Savings Bank Act be read a second time.  
1850 Those in favour? (**Members:** Aye.) Those against? Carried.

**Hon. D A Feetham:** Mr Speaker, can I ask for somebody to look into what I am about to say? I  
have noticed during the course of proceedings this afternoon that every time Mr Clinton rises  
and makes an intervention the camera on that television is on Mr Speaker, so Mr Clinton is ... I  
1855 do not know whether there is a problem just with that particular monitor or whether people at  
home are also seeing Mr Speaker when Mr Clinton ... I am just saying it because we are about to  
move to the Bill on the public debt, which Mr –

**Mr Speaker:** Well, let's try it and see what happens.  
1860

**Clerk:** The Gibraltar Savings Bank Amendment Act 2016.

**Gibraltar Savings Bank (Amendment) Bill 2016 –  
Committee Stage and Third Reading to be taken at this sitting**

**Chief Minister (Hon. F R Picardo):** Mr Speaker, I beg to give notice that the Committee Stage  
and Third Reading of the Bill be taken later today, if all hon. Members agree.

1865 **Mr Speaker:** Do all hon. Members agree that the Committee Stage and Third Reading of the  
Bill be taken today? (**Members:** Aye.)

**Public Finance (Borrowing Powers) Bill 2016 –  
First Reading approved**

**Clerk:** A Bill for an Act to amend the Public Finance (Borrowing Powers) Act 2008.  
The Hon. the Chief Minister.

1870 **Chief Minister (Hon. F R Picardo):** Mr Speaker, I have the honour to move that a Bill for an  
Act to amend the Public Finance (Borrowing Powers) Act 2008 be read a first time.

**Mr Speaker:** I now put the question, which is that a Bill for an Act to amend the Public  
Finance (Borrowing Powers) Act 2008 be read a first time.  
1875 Those in favour? (**Members:** Aye.) Those against? Carried.

**Clerk:** The Public Finance (Borrowing Powers) Act 2016.

**Public Finance (Borrowing Powers) Bill 2016 –  
Second Reading –  
Debate commenced**

**Chief Minister (Hon. F R Picardo):** Mr Speaker, I have the honour to move that the Bill be now read a second time.

1880 There is absolutely no attempt to keep Mr Clinton off anybody's television screen. I assume the hon. Member does not think I was conspiring to achieve that. He knows, apparently, according to him, that if I was conspiring to achieve it I would have ensured that it was *his* image that did not appear on television screens, so it must have been a gremlin.

1885 Mr Speaker, under section 3(1) of the Public Finance (Borrowing Powers) Act 2008 as it currently stands, the Government is not permitted to draw down or incur any additional public debts nor without the leave of the House by resolution draw on the cash reserves in a manner that will cause the net public debt after such borrowing or drawdown to exceed either £200 million or the lower of two formulas based on GDP and Consolidated Fund recurrent revenue. Those formulae are those set out in the Act as follows: namely, firstly, 40% of the gross  
1890 domestic product; or secondly, 80% of the Consolidated Fund recurrent annual revenue.

Mr Speaker, in terms of the economy of Gibraltar today, the effect of those formulas means, in number terms, the following: in terms of 40% of the GDP and calculating the GDP as £1.8 billion, the 40% figure would be a maximum net debt of £720 million – we are nowhere near that figure and hon. Members know that in fact our target is even less than half of that  
1895 figure, namely £300 million by the next Election and is predicted in the current estimates to reach £314 million by the end of this financial year, which will be by the 31st day of this month; and 80% of the Consolidated Fund revenue in the past financial year, which was £571 million, would have amounted to £457 million.

Mr Speaker, at £314 million of net debt, where we expect to be at the end of this month and  
1900 what we are predicted to be at the end of this financial year, we are *very, very* well within the current legal limit of debt, so we are nowhere near hitting the legal limit of debt set out in the law as it stands, either based on the Consolidated Fund revenue position for the past financial year, which is relevant this year, or under the anticipated Consolidated Fund revenue position expected to be reported this year in the estimates that are presently being prepared. So this is  
1905 *not* by any measure a law that is designed to allow a Government to borrow more because we might be close today or we might be close tomorrow to hitting the current legal ceiling of debt.

Mr Speaker, hon. Members will in fact know that the most recent occasion where Gibraltar has been close to hitting the ceiling of debt was at the time of the 2011 General Election. At that time, the then Financial Secretary, the distinguished and learned Dilip Dayaram Tirathdas had  
1910 cause to write to me, as the newly elected Chief Minister, to advise that we would soon be hitting the borrowing limit ceiling unless we took measures to increase the ceiling. A resolution of the House would have been required to avoid the limit being hit and to allow further borrowing.

Mr Speaker, given that there are a large number of new Members on the benches opposite, I  
1915 think I should set out clearly what the position was exactly at the time that we took over and how precarious it actually was. To do that, I need to explain to them that it is traditional for the Financial Secretary to prepare a note of the public debt position for any arriving Chief Minister after an election. That is not, of course, the most pleasant thing that happens upon winning an election for the first time but it is one of them, Mr Speaker. The Financial Secretary's  
1920 memorandum giving me a snapshot of the public finances of Gibraltar as at 8th December 2011 read as follows.

It was headed 'Position of the Public Finances of Gibraltar on 8th December 2011' and then went on to say this:

Under section 3(1) of the Public Finance (Borrowing Powers) Act 2008 the Government is not permitted to incur any additional public debt nor draw down on its cash reserves unless it is approved by a resolution of Parliament if this will cause: (1) net public debt after such borrowing to exceed either (a) 40% of Gibraltar's gross domestic product or (b) 80% of Consolidated Fund recurrent annual revenue; or (2) the annual debt service ratio, the ratio of annual debt interest payments to Consolidated Fund recurrent annual revenue, to exceed 8%.

Net public debt refers to aggregate public debt, i.e. the total amount of public debt owing to the Government, less Government's cash reserves, i.e. the Government's cash holdings in the Consolidated Fund and the Improvement and Development Fund. Aggregate public debt currently stands at around £519 million with cash reserves standing at around £234 million. Net public debt therefore stands at £285.8 million.

The latest figure of gross domestic product published by the Statistics Office is £954.1 million. This is in respect of the year ended 31st March 2010.

Consolidated Fund recurrent annual revenue for the last financial year ended 31st March 2011 is £382.7 million.

Annual debt interest payments, which are applicable to the current level of aggregate public debt, are at around

– this is an important figure –

Annual debt interest payments, which are applicable to the current level of aggregate public debt, are at around £21.3 million. The weighted average interest rate payable on the public debt is 4.1% per annum.

Applying these figures to the provisions of the Public Finance (Borrowing Powers) Act 2008, no new borrowing is permitted that would cause: (1) net public debt to exceed either £381.6 million, which is the 40% of Gibraltar's gross domestic product, or £306.2 million, 80% of Consolidated Fund recurrent annual revenue; or (2) annual interest on aggregate public debt to exceed £30.6 million.

Assuming interest on new borrowing at say 5% per annum, a further increase in aggregate public debt of £186 million would be possible. However, useable cash reserves stand currently at just £20 million.

1925 Mr Speaker, that was the position put to me by the Financial Secretary on the day that we were elected – at the close of business of 8th December 2011.

On 9th December, the election result was announced, we entered Convent Place and I took papers home to read for the weekend.

1930 By the following Monday, 13th December, the position had already worsened. By then, all my colleagues and I had done in Government was have a cup of tea, and this is what the Financial Secretary told me in a memo of that date, 13th December:

Public debt – proposed resolution to drawdown on the cash reserves.

Under section 3(1) of the Public Finance (Borrowing Powers) Act 2008, the Government is not permitted to draw down or incur any additional public debt nor without the leave of the House by resolution draw on the cash reserves in a manner that will cause: (1) the net public debt after such borrowing or drawdown to exceed the lower of (a) 40% of the gross domestic product or (b) 80% of Consolidated Fund recurrent annual revenue; or (2) the annual debt service ratio, the ratio of annual debt service payments to the Consolidated Fund recurrent annual revenue, to exceed 8%.

The aggregate of gross public debt currently stands at around £520 million and current cash reserves stand at around £230 million. The net public debt, i.e. the gross debt less the cash reserves, is therefore £290 million.

The Consolidated Fund recurrent annual revenue for the financial year ended 31st March 2011 amounted to £382.7 million. This leaves the cash reserves which are available for drawing down at around £16 million

– four days later, £16 million –

382.7 x 80%, which equals £306.6 million less £290 million.

In order to fund the Government's ongoing capital expenditure ...

I need to pause there in reading the Hon. Financial Secretary's memo. That was, hon. Members will want to recall, GSD capital expenditure. We had just been elected. There were capital projects that were still ongoing under the former administration.

and in order to give the Government the necessary flexibility in the implementation of its economic plan, I recommend that a resolution be passed in order to enable the Government to draw on its existing cash reserves.

1935 Mr Speaker, the diligent Mr Tirathdas had even gone to the length, I am happy to inform the House, of attaching the necessary draft resolution, which would have provided as follows:



This House approves the resolution pursuant to section 3(1) of the Public Finance (Borrowing Powers) Act 2008, giving leave to the Government to draw on its existing cash reserves.

1940 That was the resolution that he prepared, Mr Speaker. My Government decided not to bring that resolution, but before Members opposite pretend that it was not necessary because what I am saying is not correct, they need to remember the statement from their former leader at the time of the ceremonial opening of Parliament in 2011, when the man sometimes known to them as the greatest Gibraltarian of all time said that he would support us in bringing such a resolution, thereby demonstrating that it was necessary. Mr Caruana actually specifically said that the GSD would support the new Government in any parliamentary approval that might be required for additional borrowing.

1945 But that was not the only time that the GSD had taken Gibraltar to the brink of hitting the debt ceiling. The previous occasion when the ceiling was almost hit was in 2009 when the last amendment was made to this legislation, also by the GSD.

1950 Dealing with that law as presently in place since the last GSD amendment, Mr Speaker, a further restriction on the level of permitted public debt prescribed under the Act is that the annual debt service ratio must not exceed 8%. This means that the annual debt interest payment divided by the Consolidated Fund recurrent annual revenue must not exceed 8%.

Mr Speaker, this Bill seeks to amend the Act in order to provide the Government with additional flexibility in the management of the public debt.

1955 Let me be clear about that purpose: *we are not here looking to amend the law because we need to increase borrowing*. We are proposing these changes in order to provide additional flexibility so that we can get a better deal for Gibraltar when it comes to the borrowing already in place and to allow Governments of whatever political complexion to take future borrowing based on the size of the economy's growth and taking the sum of £300 million as the benchmark, given that that is the sum set out in our manifesto as the target to which we will get our net debt by the next General Election.

1960 As hon. Members are aware, the public debt is currently made up of £200 million of commercial bank loans which mature within the next five years and around £250 million of very short-term Government debentures. There is therefore a clear need to increase the maturity profile of the public debt.

1965 There is also a great opportunity, with the current low level of market interest rates and the availability of low-cost finance, for the Government to secure medium to long-term financing at *historically low levels of interest rates*. Indeed, an article in *The Times* of London two weeks ago set the position in context, stating that the British Government has never been able to borrow at rates as low as those available today. I think they are the lowest in three or four hundred years, Mr Speaker. Two Saturdays ago, the *Financial Times* set out an even clearer statement of the position by reference to the possibility that emerged beyond the negative interest rates already on offer in some places, referring to the potential for helicopter cash to be provided by financial institutions to their clients.

1975 Indeed, Mr Speaker, the House will want to note that gilt rates have only been lower than they are now on 28 days out of the last 10 years. That illustrates that this is a historic low in interest rate terms and that we are at a juncture at which we must have the flexibility to reorganise the nation's borrowing in a manner that is designed to take full advantage of these opportunities for the taxpayer. Our common shareholders would expect nothing less.

1980 The Government therefore considers that the time is now right to embark on the restructure of the public debt with the aim of having longer-term financing in place and at a considerably lower cost than is the case today. Indeed, Mr Speaker, it would be highly irregular for us not to make the most of the opportunity that presents itself to us. In fact, it would not be prudent for us not to take advantage of these historically low rates and it would be *very* imprudent to continue to borrow at higher interest rates than those that might now be available for us for longer and fixed terms. Indeed, it would only be bankers, Mr Speaker, that would stand to gain

1985 from us continuing to pay on old rates without seeking to improve the performance of our  
borrowing. The public debt needs to be more stable and with a wider base of funding sources. It  
needs to be made up of both medium and long-term borrowing and it needs to be at a much  
lower cost per pound borrowed.

1990 Mr Speaker, this Bill seeks to amend the Public Finance (Borrowing Powers) Act 2008 to  
provide the Government with the flexibility that we require in order to do this. The amendment  
ensures that a prudent level of maximum public debt is maintained at all times, whilst ensuring  
that the maximum level of permitted public debt remains responsive to the growth in our  
economy.

1995 We may not need to rely on this amendment in any way, Mr Speaker, and we expect that we  
will not need to, but we do have to create the flexibility in case the ability to take advantage of  
the historic low rates does mean that we need to take the public debt option of increasing the  
net debt, even if for a short period. We obviously have to consider all the opportunities that are  
now becoming available and we are reviewing all the options in the market in order to take  
maximum benefit for the taxpayer.

2000 Having said that, in fact it would be wrong for any Member opposite to argue that this  
amendment in any way or in some way delinks the debt from the annual recurrent revenue. In  
fact, the link is maintained. The Act will continue to provide, in section 3, that the annual debt  
service ratio must not exceed 8%, thus maintaining the link with Government revenues and  
ensuring that servicing costs of gross debt remain affordable at all times. We consider that this is  
2005 an important link to the ability to service our debt at all times and we believe that it is a link that  
should be maintained. And the link is maintained at a very prudent level indeed. We are not  
raising the 8% provision at all; we are maintaining it at the level at which it is today and at which  
it was set by the GSD when they were in office.

2010 Indeed, Mr Speaker, the naysayers out there who like to try and pretend that our borrowing  
is at a level which is anything other than entirely prudent have the huge difficulty to contend  
with that very few nations or households can boast a debt servicing ratio as low as 8% to  
national recurrent revenue or household income. And, as any householder will tell you, that is  
undoubtedly the most prudent way to calculate whether or not you have borrowed too much.

2015 As in every other analysis done in good faith, we can show that in fact our borrowing is at  
very prudent levels, and by this measure in particular people will be able to see for themselves  
that we can more than service a debt which amounts in interest terms to no more than 8% of  
our annual recurrent income. In number terms, that means that our interest payments per  
annum cannot exceed £44.7 million, and they do not, Mr Speaker. In fact, the annual debt  
servicing cost is currently approximately £20 million. Hon. Members will recall that I gave them  
2020 the figure for what it was in 2011 when we took over: it was £21.3 million then, Mr Speaker.

2025 The other important link to the size of the economy, which we of course intend to maintain  
and is maintained by this amendment, is the link to the GDP. The maximum level of net public  
debt will therefore also continue to be restricted to 40% of the Gibraltar gross domestic product,  
thus ensuring that the net public debt remains at a prudent level but in a way that is also  
responsive to the needs of our economy.

Mr Speaker, just to set that aspect of the formula in context, I remind the House that the GDP  
has increased from £1.1 billion to £1.8 billion in the past four years alone. It is expected – it is  
projected, in fact – that the GDP will rise further to approximately £2.4 billion in the next four  
years. As a result, we expect that our economy will, in effect, have grown by 118% from the time  
2030 that we took over. Our net debt, however, will have increased only by 4.8%, from the amount  
that we inherited of £286 million to our target of £300 million, by the date of the next election.  
Those are ratios to be very proud of indeed.

2035 Mr Speaker, the amendment also provides for the minimum level of permitted net public  
debt calculated as a fixed sum and not with regard to the formula to be increased from  
£200 million to £300 million. Although this may have no practical effect at present, in view that  
our public debt already exceeds this amount and that the other two measures outlined currently

provide for a higher level of maximum public debt, the Government has considered it prudent to retain this minimum threshold, especially in view of our declared target of net public debt for the end of the next four years.

2040 Mr Speaker, it is worth reminding ourselves that the net public debt of Gibraltar was £100 million until 2008. Then the GSD changed the limit, or the legal ceiling, by 100% to double, namely £200 million. It is important that the House notes that point. I therefore want to emphasise that we saw a 100% increase in the maximum ceiling of debt in 2008 by the  
2045 introduction of the borrowing powers legislation which is before the House today for amendment – and I hesitate to remind hon. Members that we supported that motion, Mr Speaker. We supported the 100% increase in the net public debt which hon. Members brought in – the debt, rather, because it was then in gross terms. And let's be clear that that was the GSD Government's position.

Just one year later, Mr Speaker, in 2009 – one year later – the GSD came back to this  
2050 Parliament and told us that they had once again to change the debt ceiling. In just one year they came back to change the criteria again, and so therefore in 2009 the proposal from them was to move away from a formula based on gross debt to a formula based on net debt – I believe on both occasions with our support, Mr Speaker. So the debt went from £100 million in 2008 to £200 million under the GSD, and that was not enough, and within a year, in 2009, the GSD  
2055 needed more and came back to Parliament to increase the debt again and change the formula from a gross debt formula to a net debt formula.

By the time that we took over the administration of our nation's affairs, on 9th December 2011, the net debt had increased to £286 million. That amounts to a net debt increase of £186  
2060 million, from £100 million at the time of the 2007 General Election to £286 million by the time of the 2011 General Election. That amounts to an increase of 186% in net debt terms under the GSD between 2008 and 2011. To be clear, that means that net debt was then, under the GSD, 26% of the GDP of our nation of £1.1 billion, and I am giving them the benefit of that figure, being the figure for that year.

Since then, we have seen our net debt increase under our administration with a target of  
2065 £314 million by the end of this financial year in 29 days, Mr Speaker – £314 million in the next 29 days. The ratio of net debt to GDP will then be 17% net debt to GDP ratio, down from 26% when the GSD left office – 17% of £1.8 billion, 26% of £1.1 billion.

As a result, Mr Speaker, the position by the end of this financial year will be that the net debt will have increased from £286 million under the GSD to £314 million, an increase of only 9.8%, in  
2070 the time since we took over: 9.8% in four and a half years – not bad, compared to 186% in four years. A less-than-10% increase in four years and three months, Mr Speaker, and by the end of the lifetime of the Parliament the result will be even healthier with a GDP to net debt ratio of 12.5% as we project.

I therefore come to the House safe in the knowledge that we have therefore been able to  
2075 show that the management of our nation's public finances is more than safe in our hands. That is what our nations shareholders decided in our General Election late last year, less than 100 days ago.

By bringing this Bill to the House we are giving effect to the will of the people that we should continue our prudent management of our public finances in the manner which they so  
2080 overwhelmingly approved at that said General Election and setting the target of £300 million set out in our manifesto and chosen by the people as the maximum possible net debt if the other formulations produce the results, as well as allowing through this Bill also the flexibility necessary for the prudent management of our nation's affairs to continue and to be better structured.

2085 Mr Speaker, I commend the Bill to the House and I have no doubt everyone will want to support Gibraltar paying even less interest. (*Banging on desks*)

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

2090 The Hon. Mr Roy Clinton.

**Hon. R M Clinton:** Thank you, Mr Speaker.

First of all, I would like to place on record that I have the utmost esteem for the Financial Secretary, given that the Chief Minister stated in answer to oral questions:

I want to make it clearly understood that the Financial Secretary has not felt any need to give any views to suggest a proposed change should not be made. In fact, it would be surprising if he had, given that he proposed the change in question should be made.

2095 Mr Speaker, I do have a problem with the change proposed.

I am grateful to the Chief Minister for having through the memos from the Financial Secretary of 8th and 13th December.

2100 The first point I would like to make is, as he himself has said, that the net debt when he took office was £285.8 million – or £290 million; we will take either number. What he omits to say, and in answers to questions this afternoon, is that the net debt as at 1st January 2016 is now £415 million. Mr Speaker, he has got to find £100 million in the next three months to bring it down to £314 million.

**A Member:** Three weeks.

2105

**Hon. R M Clinton:** Well, three weeks – I do not know what the position is now, unless he is telling me that is the position today. (*Interjection*)

Thank you, Mr Speaker.

So far, I have not actually heard a cogent reason for increasing the borrowing limits.

2110 If the Chief Minister is relying purely on the advice of the Financial Secretary, I refer him back to the memo of 13th December and the section at the end which he did not read out. It was an explanatory note which the then Financial Secretary suggested should accompany the motion, and in it he said:

The Government intends to bring a Bill to the House early in the New Year in order to amend the Public Finance (Borrowing Powers) Act 2008 to provide for the Government's borrowing levels to be measured and controlled in future on the basis of a maximum level of gross debt, rather than net debt. It is the maximum gross debt that the Government considers to be a clearer measure of our national debt as well as a better measure for comparison purposes with other countries. The gross level of debt of Gibraltar –

– as he writes then –

is currently £520 million and the Government is committed to bring this gross debt level down significantly during its first term of office.

Now, Mr Speaker, we all know the Government failed in that attempt.

2115 What I am trying to say is that the Government obviously did not bring this resolution to the House, so it does not follow automatically that whatever the Financial Secretary suggests is followed by the Chief Minister.

2120 Furthermore, from his contribution I seem to deduce that the reason he is giving for this increase in the limit is in order to refinance the Government debt. It is important to note that of the Government debt he says £200 million is bank financing, which I believe Mr Mena only just refinanced the NatWest facility of £50 million only recently at a favourable rate. I remember the Chief Minister congratulating him profusely, and I too congratulated him. What the Chief Minister fails to point out is that £250 million, or thereabouts, of that Government debt is in fact Government debentures which are held by none other than by the Savings Bank. And in answer to questions in the last Parliament – I refer to the Written Answer W11:

2125

As at 1st December ... the aggregate public debt which comprises Government debentures had no maturity date and at 6% p.a. interest.

2130 Six per cent. So the Government is paying 6% to the Savings Bank, which is obviously how he is generating reserves in the Savings Bank and paying the 5% interest. I fail to see how an increase in borrowing limits is going to allow him to refinance at least that element of the public debt. And the other element of the public debt, which is NatWest, was only recently renewed, with the success of the Financial Secretary, but that remains the under £150 million with Barclays Bank. I still do not see why you would need to increase the borrowing limits if all you are doing is renegotiating interest rates at what are historically low levels.

2135 So, Mr Speaker, in terms of the arguments which the Chief Minister has put so far, I find nothing of substance. All I have heard so far are lots of statistics, which are great but they do not address the issue.

Mr Speaker, the Bill we are debating today is of critical importance to the financial stability of Gibraltar and is yet fundamentally flawed in its conception for the reasons I propose to explain.

2140 *Non plus ultra* was a warning that all ancient mariners would be familiar with as they approached the Pillars of Hercules. Put quite simply, it meant there was nothing further beyond and to venture through the Straits of Gibraltar was both foolhardy and reckless.

2145 And so it is with the formula adopted in the past to control Gibraltar's net debt limit, which is meant to mark the boundary between the safe and unsafe, prudence or perdition. That limit, as it stands today, is derived by the application of formulae, namely, as the Chief Minister has already said, net debt not to exceed the high of £200 million or the lower of (a) 40% of Gibraltar's gross domestic product – i.e. I took £1.6 billion, he has £1.8 billion, I would arrive at £657 million, he arrives at £720 million, both numbers are still higher than at present; or 80% of Consolidated Fund recurrent annual revenue – 80% of £571 million giving us £457 million, that number we both agree on; and (b) the annual debt service ratio not to exceed 8%. Assuming 8% of £571 million, that would give you £45 million notional interest cost, and if you grossed it up it would give you a gross debt of about £750 million, assuming interests costs of 6%. Obviously, the interest cost is much lower if you can get it at negative rates – I guess you can have an infinite amount of debt.

2150 Any additional borrowing that would cause the above limits to be exceeded would require a resolution of the House. The current net debt limit, as we have said and agreed, is £457 million.

2155 Mr Speaker, it would serve us well to remember the origins of the formula. The Hon. Joe Bossano, in his 2015 Budget speech, gave us a very good history of the setting of the debt limits in 2008 after the new Constitution in 2006. He said, and I quote:

The Public Debt of Gibraltar was first limited at a finite figure of £100 million, and this was changed by a formula which happened to be what the Foreign Office requires the other colonies to adhere to and which we have chosen to apply voluntarily.

2160 Thus, Mr Speaker, the debts formula is effectively considered to be the best practice, if not the legal requirement, in other Overseas Territories of the United Kingdom. In the FCO White Paper dated June 2012 entitled 'The Overseas Territories: security, success and sustainability' the following two key statements were made in respect of maintaining sound public finances. Firstly:

The UK Government expects Territory Governments to manage public finances sustainably and takes a close interest in this because it is an important part of good governance.

And secondly:

The UK Government and some Territory Governments have agreed Borrowing Guidelines, which provide a disciplined framework for managing public finances and a valuable commitment to sustainability.

2165 Going into more detail in respect of the borrowing of financial reserves of the 14 Overseas Territories, including Gibraltar, the FCO went on to say, on borrowing:

It is important for Territory Governments to keep borrowing under control. The need to exercise discipline on borrowing is particularly important to ensure the economic resilience of the Territories because of the structure of their economies and the limited macroeconomic tools available to Territory Governments.

And further, on financial reserves:

Building financial reserves during good economic times is a particularly important contributor to economic resilience. A healthy level of reserves helps Territories maintain public services and capital expenditure throughout the economic cycle and creates room for counter-cycle cyclical fiscal policies.

2170 Mr Speaker, all this may sound like common sense, and indeed in it we can recognise a reference to the Hon. Joe Bossano's prudent and sensible rainy day fund. But the Government is neither being prudent in increasing our borrowing levels nor is it building up cash reserves for maybe difficult times ahead. What the Government is currently doing makes no sense.

2175 The amendment proposed in the Bill to the formula seeks to remove any reference to recurrent revenue and instead rely on the levels of GDP to determine borrowings in a measure that is evidently running contrary to the guidelines given to other Overseas Territories as good practice. Indeed, we can learn a lot from the experiences of our distant cousins in other territories such as the Cayman Islands and Bermuda.

2180 In the Cayman Islands the finances became so dire that in November 2013 the Cayman Islands had to agree a so-called 'framework for fiscal responsibility' with the UK Government. This required the Cayman Government to pass into law the Public Management and Finance (Amendment) Law 2012. This law makes for sober reading in that changes to the framework require the permission of the UK Secretary of State. Among many conditions and targets for public spending and borrowing are the following items of interest in annexe A of the legislation. Firstly, borrowing is deemed to include the following:

conventional borrowing from commercial and concessional institutions;  
the capitalised value of all alternative financing transactions (including PFI/PPP arrangements) that will place future financial obligations (in terms of increased expenditure or reduced revenue) on the Cayman Islands Government;  
the risk weighted debts and PPP/PFI arrangements of statutory authorities, government corporations and companies;  
borrowing that is contracted by the Cayman Islands Government, but then on-lent; and finally any other debt guaranteed by the Cayman Islands Government.

2185 Mr Speaker, I would challenge the Government to adopt the above definition and then perhaps we would have a true picture of Gibraltar's indebtedness, including the £400 million in Credit Finance. (*Banging on desks*) (**Several Members:** Hear, hear.)

2190 Mr Speaker, if the above definition was not enough to put a strait jacket around the Cayman Islands Government, then secondly the borrowing limits were defined as the following: net debt not to exceed 80% of operating revenue; the debt service ratio to be 10% maximum operating revenue; and a new requirement, which we have not even mentioned up until now, is a liquid assets requirement of at least 25% of operating expenses – meaning they would have to keep 90 days' cash in reserve.

2195 Mr Speaker, note that in the limits agreed by force of circumstance between the Caymans and the UK in 2011 there is no longer any reference to a percentage of GDP for net debt, and in fact a new requirement in respect of liquid assets has been introduced. The Caymans will require to be within the limits by 2015-16, this financial year. If Gibraltar introduced a liquid assets test we would be required to hold at least £130 million, being 90 days' expenditure in the cash reserves as opposed to the £16.6 million at 1st December and the new number £30-odd million as at today.

2200 The Members opposite may well argue that the Caymans is an extreme example of what can go wrong when public finances are badly managed. (**Hon. D A Feetham:** Hear, hear.) However, let me now turn to the case of Bermuda.

2205 Bermuda has not had any conditions imposed upon it by the UK, but the Bermudan Government is painfully aware of the weak fiscal position they are in. They have a direct debt of around \$2 billion and a recurrent budget deficit. The Government of Bermuda has set itself a target of reducing debt and debt service to less than 80% and 10% of revenues. In the past the Government have committed to setting aside a fixed percentage of a standing debt into a sinking fund, but even this has not been enough. In their 2016 budget statement, the Finance Minister, the Hon. E T Richards, was quoted as saying:

We must get to grips with the deficit and debt problem because they stand between us and a secure future.

2210 Mr Speaker, he could not have put it more clearly, and that is the warning for any other similar-sized territory, like us.

2215 The Government of Bermuda are taking responsibility for their predicament, and in fact they have gone so far as to commission an independent panel on fiscal responsibility to report to their Parliament on an annual basis as to progress towards their set targets. The panel's first report was published in December 2015 and I consider it to be worthy of Members' attention, and to that end I have placed a hard copy of this report in the Parliament's ante-Chamber for their convenience, to read when they get a chance. If not, you can get it from their website. (*Interjection*) It is there. I can hand deliver it to you – silver service!

2220 This report is important in a number of areas: firstly, it helpfully provides a debt limit comparison table with other jurisdictions, including Gibraltar; and secondly, it gives an opinion on the suitability of net debt to GDP as a target limit.

I will quote briefly from their executive summary and the body of the report. This is what the panel of experts had to say. I quote:

The debt and debt service to revenue targets are the important ones for Bermuda. We therefore

– I pause here –

suggest dropping the debt to GDP target, but if it is to be retained it should be considered at a consistent level – of around 15%.

Mr Speaker, Bermuda's current debt to GDP ratio is around 38%.

In discussing debt to GDP ratios, the panel of experts noted, and I quote:

Debt/GDP is a conventional measure used for larger economies, with GDP giving a measure of the taxable capacity of an economy and hence of a government's ability to service its debts. Debt and debt service to revenues are however in some ways more appropriate measures of fiscal sustainability for jurisdictions like Bermuda with low levels of taxation, with significant sections of the economy that are difficult or impossible to tax at a much higher rate, and which cannot afford the pressure that high expenditure on debt service puts on finance for government services.

2225 And so, Mr Speaker, if this was my A-level pure maths homework, I would now be confidently writing 'QED' in having proved that linking debt limit to GDP is neither current nor good practice for jurisdictions and economies the size of Gibraltar.

2230 The Government's proposed amendment to the Public Finance (Borrowing Powers) Act 2018 can now be seen to be contrary to good government and financial management in that rather than abolish the limit link to GDP and keep the limit link to recurrent revenue they are proposing the exact opposite. Abandoning the link to recurrent revenue will mean that automatically the net debt limit will increase from £457 million to £657 million on my calculations. Although there will be a higher number on his calculations, I reckon there will be an increase of at least £200 million.

2235 Mr Speaker, in examining the reasons as to why the Government are seeking to introduce this amendment, let us first of all dispense with one urban myth the Government are trying to promote, namely that it is a manifesto commitment; and nor is it, as per *The New People* headline on 7th January 2016, a 'tidying of debt'. This is pure spin to cover up a dangerous financial situation.

2240 The GSLP Liberal manifesto makes no mention of amending the borrowing limits – in fact, quite the opposite. I quote:

Nett debt will be targeted at £300m for the end of the next 4 years, well below the maximum limits of the ratios provided in the law of 80% of revenue and 40% of GDP.

They also stated, and the Chief Minister has confirmed today, that a target for 31st March 2016 is that net debt should be £314 million, in line with the 2015-16 estimates. If this is the case, then the Government will have £143 million headroom before reaching the 80% recurrent revenue limit of £457 million.

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In the Government's Press Release No. 6/2016 of 6th January they state, and I quote:

The ratio of 80% of revenue for limiting the size of the debt is removed because it has the effect of restricting the debt level, even when it is comfortably below the other two criteria, and exposes the Government to unexpected fluctuations in income.

Mr Speaker, as I have already discussed, is it the ratio of debt to revenue that is the proper measure as to affordability, (**Hon. D A Feetham:** Exactly.) and if revenue is dropping, so should our borrowing capacity. It is tantamount to applying for a credit card limit increase when you know your income is set to fall.

2250

Given that the Chief Minister has avowed he does not intend to increase net debt by £200 million or borrow any other amount, then what can be the real reason for this move now? Again, I am grateful for *The New People* – which I read avidly, as the Members opposite will know (*Interjections*) – who wrote on 7th January 2016:

The current law requires that debt be no more than 80% of recurrent revenue. This means if recurrent revenue falls, the debt, which is manageable and the interest on which is easily payable, could suddenly be rendered illegal. A fall in recurrent revenue could come at any time from a reduction, for example

– and I quote them –

A reduction in import duties.

2255 Mr Speaker, this raises two interesting points. Firstly – and I hope the Chief Minister is taking notes – has the revenue actually fallen that much, such that for the year starting 1st April 2016, i.e. financial year 2016-17, the net debt limit will be so much lower? On the projected net debt of £314 million on 31st March 2016, for this to be a breach of the 80% limit to recurrent revenue, then revenue would have to drop from £571 million in 2015 to £392.5 million in 2016.

2260

That would be a decrease of £178.5 million, or 31.3% year on year, which would by all accounts be catastrophic. If this is indeed the case, I would expect the Government to issue an emergency statement to this House. On the other hand, if net debt is not decreased to £314 million on 31st March, then one can only speculate as to what the Government's intended level of debt would be that would cause a breach of the limit.

2265

The second point on the commentary in *The New People* which is of interest is that net debt going above the 80% of revenue threshold does not, from a reading of the current Act, as I have been advised, automatically make the debt illegal. Existing debt accumulated at a high-water mark of revenue, so to speak, is not rendered of itself illegal. What it does mean is that if the Government sought to raise additional borrowing it would need to seek the resolution of Parliament to do so.

2270



Mr Speaker, I have sought to demonstrate, as I said at the opening, that the proposed Bill is flawed. It is flawed because the set borrowing limit is based primarily on GDP only, which is not prudent or best practice; and also, because if its aim is to protect against fluctuations in income, it is unnecessary as the high water mark debt level would not of itself be rendered illegal.

2275 Mr Speaker, if I may now perhaps turn to a more positive contribution, I would urge the Government to follow the recently issued advice on how to deal with debt issued by their own Citizens' Advice Bureau. Their top two tips are as follows: (1) don't bury your head in the sand – dealing with debt problems is easier the smaller they are to take action before they start to spiral out of control (**Hon. D A Feetham**: Yes!); (2) think very carefully before you take out more credit or a loan to cover your debts. This is sensible advice.

2280 The Government should start planning now to reduce its debt burden rather than make it the next generation's problem. To this end, I would suggest the Government continue with its sinking fund but do so in a disciplined manner with a set percentage set aside, as the Government of Bermuda have done.

2285 To this end, I wrote to the Chief Minister on 17th February proposing an amendment to the definition of net debt in the Public Finance (Borrowing Powers) Act 2008 to include the balance of any special sinking fund created specifically for the repayment of public debt. Unfortunately, I have not had sight of his response letter but no doubt he will enlighten us in his reply. This would avoid, in my view, the perverse inequity of cash balances in any debt repayment special fund not being taken into account when calculating Gibraltar's net public debt.

2290 Mr Speaker, this Government needs to realise that it has a fiduciary duty to the people of Gibraltar in the management of its public finances. History will not be kind to any Government that fails in that duty and leaves Gibraltar on the road to perdition. It is a dangerous road that this Government embarks Gibraltar on by its proposed amendment. It is a fiduciary duty owed by the Government itself and not any public servant.

2295 The Hon. Chief Minister indicated, in answer to a question, that the suggestion comes from the Financial Secretary, but his answer has not explained why the Financial Secretary may have made this suggestion. Is it because of the desperate need for money to pay outstanding debts or pay Gibraltar's way and this is the manner in which he suggests the issue can be resolved immediately? If that is so then, first, the responsibility still lies with the Government for that political decision, and secondly, it still lies with the Government, having placed Gibraltar in the invidious situation that requires more debt. The issue should be revisited to avoid a Bermuda or Cayman situation developing in Gibraltar with all the adverse consequences that would have, including our unique issue with Spain.

2300 So, Mr Speaker, in conclusion, if the Government insists on increasing the net debt threshold in the manner it proposes, then for the reasons I have given and outlined, it will be, regrettably, without the support of Members on this side of the House.

Thank you, Mr Speaker.

2310 **Hon. D A Feetham**: Hear, hear. (*Banging on desks*)

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

**Hon. D A Feetham**: Does anybody on that side want to before I ...?

2315

**Mr Speaker**: Apparently not ... except the Hon. Mr Bossano.

**Minister for Economic Development, Telecommunications & the GSB (Hon. J J Bossano)**: I will not deprive the Leader of the Opposition of hearing me, since he is so anxious to do so.

2320 Mr Speaker, the history of the introduction of this is that it was brought to Parliament in 2008 by the GSD, who, like most of the things that they did, presented it as the best thing since sliced bread and said that they were being more prudential than anybody else anywhere else and that

2325 this was a wonderful way to proceed. Indeed, when we were debating this I had misread the provision and I thought that the ceiling that was being put prevented the debt from reaching £200 million, and I said so in my contribution. The then Chief Minister said, as if he had caught me out, 'Ah! Then what the hon. Member is saying is that he would support us to have more,' and I said, 'Yes, I would support you to have more. I think it is wrong to put constraints on the ability that you have got to borrow if you have got an opportunity to borrow money and invest and do something that is productive and creates growth and jobs and activity.' At the end of the day it is not so much what you borrow but what you do with it when you have borrowed it that matters, and that has always been the analysis that I have made as an economist.

2330 Having said how wonderful it was to control the gross debt, within 11 months they found themselves in breach of the law that they had brought. So all the arguments they had put in 2008 were all rubbished in 2009, and now the correct thing to do was to bring the control on to net debt. But having brought it to net debt, in 2010 they found themselves in breach of the net debt and they invented a number of things in the changes that they made to the estimates. Many of them were by creating expenditures which were revenues. That is to say they suddenly discovered, for the first time since 1704, in 2010 that the Government should be paying rates to itself on all Government buildings. So, suddenly, the expenditure of the Government goes up by say £10 million, the revenue now goes up by £10 million, and now you can borrow £8 million because you have got £10 million more revenue. They then discovered that having taken out of the Government Consolidated Fund a number of agencies, authorities and entities, this was not transparent, so they legislated retrospectively – not in order to increase the debt but in order to be transparent – for all the things to be included, so that now, instead of, for example, the £50 million of Social Insurance money going to the Health Authority as it used to do, it first goes into the Consolidated Fund and out of the Consolidated Fund – and now you can borrow £36 million.

2345 That is just simply to illustrate to my opposite number, the Hon. Mr Clinton, who is a recent arrival in the GSD, what the GSD standards of prudence and manipulation of numbers was, because the reality of the situation was that they had created a rod for their own back.

2350 The hon. Member has quoted what the Foreign Office has told the Cayman Islands they must do. Of course, this is the modernised, non-colonial relationship of the Cayman Islands with London. (*Interjection*) Well, according to the United Kingdom when they speak in the UN they say all their territories are modern non-colonial relationships.

2355 I can tell the hon. Member the relationship with Gibraltar was changed way before the Constitution was changed. It was changed in 1988, because the first time that I was told the Financial Secretary has to go to the Foreign Office to get permission to increase the public debt I said, 'The policy of the Government is very simple: if we need the permission of the United Kingdom, then I want a letter in writing saying that they guarantee and underwrite my debt, in which case I can now borrow at UK rates and not at Gibraltar rates. I get charged more, as Gibraltar, than the UK does precisely because they will never say in public what they are implying in private, that there is a contingent liability. They want to use the contingent liability to control what we borrow, but they do not want to admit to it because then, in effect, it would give us an advantage.'

2365 Obviously, none of the other colonies did what this colony did, and they decided that the question of what we could borrow or what we could not borrow did not really apply to us, and this was under the 1969 Constitution in 1988, never mind under the 2006.

2370 So I think what the United Kingdom says to its colonial territories has to be taken with a pinch of salt because they do not apply it to themselves and they do not apply it to Jersey, Guernsey or the Isle of Man. They do not tell anybody in Scotland or Northern Ireland there has to be this ratio to revenue. Indeed, their ratio to GDP is now 84%. The requirement by the European Union for joining the single currency, the euro, the Economic and Monetary Union criteria set out for the first time was that it should not exceed 60% of GDP. Nobody in Europe meets that criteria now, except Gibraltar. In the third economy in the world, Japan, the GDP to debt ratio is now 225% and will soon hit 240%. If these economies had links to revenue they would be, in effect,

2375 bringing about a deflationary policy on the economy, and in our case the one thing that  
 changed, which makes the ratios even more of a straitjacket than they were by definition, is  
 what was done by introducing the 10% tax rate, because now we have a situation where, if we  
 say – as indeed the GSD did when they brought somebody from the UK, from the London School  
 of Economics, to say that a debt to GDP ratio of 40% was very low ... Well, look, if it was very low  
 2380 then it must still be very low now. We can always pay the same guy who said it for them to say it  
 for us. I hope the price has not gone up because inflation is only 0% at the moment.

The point is, of course, that if you have got an economy that is growing predominantly by  
 private sector growth ... If the hon. Member looks at the figures that the Leader of the  
 Opposition asked me for recently, about the different elements, he will see that the biggest  
 2385 element in the growth in the last few years has been the growth in company profits. When the  
 company profits go up by £100 million the GDP goes up by £100 million but the revenue of the  
 Government goes up by £10 million. If that is the relativity between Government revenue and  
 private sector generated economic growth, in effect what you can guarantee is that if you keep  
 the 80% of ratio revenue what you are saying is forget the 40% because you will never be able to  
 2390 reach the 40%, which is not considered to be a dangerous level, has never been considered by  
 anybody else in Europe. The level in Europe is 60%. Everybody is above 60%. We are below 40%  
 and we are never going to get above 40%. But in any event, de facto the 80% ratio, if the  
 economy is growing, will create a situation where that 80% may start being the equivalent of  
 35% of GDP and then it will be 30% of GDP and then it will be 25% of GDP, because one of the  
 2395 components of the formula is growing at 10% and the other one is growing at 1%, because the  
 tax ratio is one tenth of the company profits and the company profits are the biggest element in  
 the GDP growth.

Therefore, he is right in saying, ‘We don’t need it: why are we doing it?’ Well, we are not  
 doing it because we need it; we are doing it because it is a stupid thing to have there, which  
 2400 creates an unnecessary constraint and it serves no useful purpose other than to say if you have  
 got a ratio of 80% of your revenue you might as well scrap the other two. All he has to do is look  
 back and he will find that the ratio that has limited the debt always has been that 80%, and it  
 has limited it because it is ill-conceived, because it only exists in the colonial territories that had  
 it imposed on them by the Foreign Office, which does not impose it on itself.

If the Bank of England or the Foreign Office or the Treasury in England thinks it is such a good  
 idea and so prudent, why don’t they try doing it to themselves? Why do they do it to the people  
 who have no choice? Because it is typical of them that what they are doing is not saying ‘this is  
 what you need to do in your economy’; it is ‘this is what you need to do so that I am safeguarded  
 from a possible cataclysm in which I might have to spend my money to rescue you – so I don’t  
 2410 give two sods whether you guys in the Cayman Islands have got unemployment as a result of  
 this ridiculous rule or you are unable to do things unless you raise taxation and drive away  
 customers, all I am concerned with is protecting my own back.’ That is what that rule is for. And  
 of course, since they have tried it even when they had the theoretical power to do it in 1998  
 with me and I am still around, I do not suppose they want to have another go at me, so they  
 2415 have never suggested that we should do it. And, of course, nowadays, in any event, they have  
 finally come around to accepting that we know how to run our house, that we do not need  
 anything from them, that we do not want anything from them and that we do better in the  
 running of our economy than they do with theirs, (**A Member:** Hear, hear.) and anybody else is  
 doing in Europe.

I think, Mr Speaker, therefore, that in the position that I have explained, the fact that we are  
 doing away with this measure is not driven because we want to borrow more and we cannot; it  
 is because it is a measure that makes a nonsense of the criteria that everybody else uses in  
 Europe, other than in the Caribbean territories that are British colonies – in the other Caribbean  
 territories it does not apply – and by the measures and the standards of the rest of Europe the  
 2425 40% is considered very conservative, and by the measures of the GSD in government they  
 proclaimed that the 40% was very conservative and they spent money bringing somebody from

the London School of Economics as evidence that they were right, that 40% was a very conservative ratio. They did not make any reference then to the 80% of revenue.

2430 The 8% of revenue is remaining because there is logic to that. The hon. Member opposite has mentioned that other people are setting the standard at 10%. Well, look, if you are spending one twelfth of your income in having to pay the interest of the debt, that is high enough as far as I am concerned and it should go no higher than that. And, of course, that in itself is vulnerable if you go into debt at floating rates, because you can be borrowing ... Everybody is now talking about negative rates, never mind low rates. I think we are in an economic situation globally for 2435 which there are no precedents, and it is very difficult to predict the future because this is a cycle that is supposed to have ended some time ago and we seem to be entering now the beginning of another cycle without having come out of the last one. In those circumstances everybody seems to be convinced that the lack of demand and the failure of all sorts of different fiscal and monetary stimuli to get the economies of other countries moving is not working, and that as long as it is not working money will continue to be cheap.

2440 One of the arguments that was used for the increase in borrowing in the GSD years was the advantage of locking in to low rates. Of course, what were low rates then look like high rates now, but nobody can predict the future. I was persuaded to lock myself in, in 1989, at 11%, and I kept on paying 11% long after it had fallen – but you get the advice when you get it, and either you take it or you do not. People were predicting that rates would go up and they came down, 2445 and I am sure that what happened with the GSD was the same thing: people were predicting that if they went in at 5% or 6% in the future it would be more, and it has worked the other way round. The £200 million of bank debt that we have got – as the hon. Member says, one was rescheduled when it finished, the £50 million; the £150 million from Barclays Bank I think 2450 matures in 2017 or 2018 and we may decide, if we have got flexibility to borrow more before that matures, if we think that the interest is going to be higher, if we have to wait until that is repaid and borrow again, for example.

2455 But I am convinced that this is the right thing to do. I am convinced that it does nothing to put Gibraltar's economy in danger and that in fact it is a rule that nobody else, other than the colonies of the remaining parts of the British Empire, of which we are no longer a part ... We are British, but not in the colonial empire anymore, so we do not have to apply these absurd rules to keep people happy in Whitehall, and therefore ... It has done enough damage already and we do not want to have to go through the kind of gymnastics that the previous Chief Minister went through by pretending that things were being done for reasons other than the one that was 2460 blatantly visible, because he was putting money in one pocket to take it out from the other pocket and say 'now the revenue has gone up by £10 million, so I am going to borrow £8 million'. And I can tell him that if he has any doubt all he needs to do is to look at the figures in those years that I have given him and he will see the movement.

2465 So, for all those reasons I think they are wrong not to vote for it, but it is their prerogative, Mr Speaker.

**A Member:** Hear, hear. (*Banging on desks*)

2470 **Hon. Chief Minister:** Mr Speaker, before any other Member on the other side rises, as I am the mover of the Bill and I need to absent myself from the Chamber for five minutes given the amount of water I have consumed, and I always like to be the red rag in order to get the best out of the hon. Gentlemen opposite, can I offer the House a recess of five minutes?

2475 **Mr Speaker:** The Hon. the Leader of the Opposition.

**Hon. Chief Minister:** Mr Speaker, I am saying that the House should recess for five minutes so I can be here when he speaks. (*Interjection by Hon. D A Feetham*) No, Mr Speaker, I move that

the House recess. I have 10 votes. The temptation is not going to get you anywhere! (*Laughter*)  
Work it out!

*The House recessed at 7.25 p.m. and resumed its sitting at 7.30 p.m.*

**Public Finance (Borrowing Powers) Bill 2016 –  
Debate concluded –  
Second Reading approved**

2480 **Mr Speaker:** Is the Hon. the Leader of the Opposition going to participate?

**Hon. D A Feetham:** Yes, of course, Mr Speaker. I beg your pardon.

2485 Before I start, I would like to congratulate my hon. Friend, Mr Clinton, on an erudite,  
powerful and understandable contribution to this House on what is an extremely complicated  
subject matter. It just reinforces my belief that placing my trust in him in succeeding me to what  
is this important portfolio of the public finances of Gibraltar was not misplaced. (**A Member:**  
Hear, hear.) (*Banging on desks.*)

Mr Speaker, my contribution will be short.

2490 It is with a sense of déjà vu that I rise in order to make my contribution, because this Bill  
shows that, just as in 2011 the Government succeeded – and I have to say I congratulate him for  
it, because he won the election – succeeded in pulling the wool over the eyes of people as to  
how they would finance their ‘Time for Change’ manifesto, so too does this Bill show that they  
have successfully pulled the wool over the eyes of people in how they were going (*Interjection*)  
to fund their manifesto in 2015. Because, in 2011, let’s not forget – and I do have to go back to  
2495 2011 because a lot of the problems and a lot of the seeds for Gibraltar’s future problems were  
sown in 2011 – and in 2011 they fought an election promising £750 million of capital projects.  
Easier said than in fact it is easier to spend, and yet they managed to spend £750 million during  
the course of four years. They also promised to freeze rents, rates and electricity. They promised  
to bring the effective rate of Income Tax down to 15%. I am not sure whether they brought it  
2500 down to 15%, but they certainly brought down the effective rate of Income Tax and I cannot  
remember exactly to what level. And of course they also promised to donate every single last  
penny of Government surpluses to Community Care – which they have done, in fairness to the  
hon. Gentlemen.

2505 Mr Speaker, you do not have to be an economic guru, you do not have to be a rocket  
scientist, to look at those promises that I have just outlined and to see that it just did not quite  
stack up to spend £750 million in capital projects, to freeze – indeed, cut – income available to  
the Government and to also gift away all the spare cash that the Government had to a charity  
like Community Care. And at the time, we said – rightly, Mr Speaker – that it could not be done.  
Of course, what we had not reckoned on was the fact that the hon. Gentlemen opposite, in their  
2510 secret economic plan, were not going to be playing by the rules; because, low and behold, what  
they did barely three months after the 2011 election is come to this House and amend the  
Gibraltar Savings Bank Act in order to change the requirement for investments in the Gibraltar  
Savings Bank to be made in cash or cash equivalent from the capital preservation point of view –  
in other words a very safe form of investment which required a matching of investments. If I give  
2515 the Government, the Gibraltar Savings Bank, £200, the Gibraltar Savings Bank is required to  
match that in liquid investments, £200, which of course is a low return, I accept, but a very safe  
form of investment. And without telling the electorate that that they were going to do this, in  
2011 when they made all those promises to the electorate, what they did was they changed that  
in order to allow the Gibraltar Savings Bank to invest in whatever the Gibraltar Savings Bank and  
2520 the Government effectively wanted. And that is what allowed them to then invest, as he calls it –

and there is very little difference between his and my nomenclature, but I will use his nomenclature, 'invest' – £400 million in Credit Finance, which then allowed them to use that money in order to fund that 'Time for Change' manifesto. When we look at the books of the Government and we look at public debt, which in March of 2012, Mr Speaker, the first Budget  
2525 that they had when they were in office ... net debt was £330 million, I think it was, and indeed the legal borrowing limit was only about £370 million. They did not have the borrowing capacity in order to fund that 'Time for Change' manifesto, so what they did was they then changed the law in order to allow them to use the money in the Gibraltar Savings Bank. And that is why we have consistently been saying over the last four years that it is unrealistic to just simply look at  
2530 the debt position of the Government directly – and in other words the net debt position, what the Government owes directly – without considering that you have got this £400 million which the Government is also basically using for its own manifesto commitments, which ought to be considered as part of the debt position of the Government. Indeed, as Mr Clinton has rightly observed during the course of his erudite contribution to this House, in England the debts of  
2535 government-owned companies do form part of the public debt, as indeed do PFI arrangements and other forms of indirect – yes, they do – other forms of indirect borrowing.

Mr Speaker, you then fast forward the position to 2015, and we fought a General Election telling the people of Gibraltar that the Government had spent too much money, that the Government had borrowed too much money, that indeed when you took into account the fact  
2540 that you had this direct borrowing and indirect borrowing that the public debt of this community was over in excess of £700 million – indeed close to £800 million – and that when you looked at the direct debt position of the Government, which in June of last year was £400 million for net debt with a legal borrowing limit of £547 million, they only had £47 million ... it was possible for them to borrow £47 million. Bearing in mind that we did not know how much cash was available  
2545 in that investment that had been made in Credit Finance, but that we suspected that it had either already been committed or spent, our position was, 'Well, actually, the Government is running out of money. The Government does not have the money available, either in cash reserves' – which were very low; I think it was about ... Well, I can do the calculation – it was about £40-something million, I think it was – I will be corrected by the Hon. the Father of the  
2550 House – in June of 2015 ... 'The Government does not have either the cash reserves ...' And remember that if you spend cash reserves net debt goes up the closer you are to the legal borrowing limits. The Government did not have the cash reserves, nor did the Government have the borrowing capability to pay for all those promises that the Government was making directly in their manifesto and that the Chief Minister was sneakily making in all those letters that he was sending to private individuals, school teachers, estates, this, that and the other, which I  
2555 asked him a question about at the last session of Parliament and he refused to give me details of all those extra manifesto commitments.

Mr Speaker, that is precisely the reason why the Government has to come to this House in order to ... not increase the legal borrowing limit – that is not what the Government is doing  
2560 here; it is redefining the legal borrowing limit in order to allow the Government to borrow £200 million more on the size of the economy as it stands now, but if the economy grows then it will be able to borrow even more than £200 million.

I believe, Mr Speaker, that the Government ought to have been honest with the people of Gibraltar, just as they should have been honest with the people of Gibraltar in 2011 when they  
2565 were promising all those capital projects and all those goodies which were going to cost so much – and indeed they delivered on most of them; some of them they are still delivering, like the cladding and refurbishment in the three estates. But they ought to have said honestly to the people of Gibraltar, 'Yes, the legal borrowing limit is £447 million, our net debt in June was £400 million; we do not have enough money to do what we are promising, and therefore we are  
2570 going to be funding it by borrowing an extra £200 million this financial year and more next financial year. They did not do it, and not only did they not come clean with the people of Gibraltar – because, as I said when I started off, this is not a question of the hon. Gentlemen

simply keeping quiet. If you read the manifesto carefully, as I did, those parts certainly that were drafted by the Hon. the Father of the House, what they were basically saying in that manifesto ...  
 2575 and creating the impression that they were going to be working within the constraints of the legal borrowing limits as existed then, which was 40% of GDP or 80% of revenue, whichever was the lowest, and that net debt was going to go down to I think it is £314 million.

Mr Speaker, I am afraid, yes, they did win, and yes, they did win with 6.8 people out of 10 – not seven, 6.8. *(Interjection by the Chief Minister)* But I voted. But they won and the election  
 2580 victory was a handsome electoral victory, and it would be churlish of me not to say so. I was generous to the hon. Gentleman when the election result was announced, even though he was less generous to me in his response. But, Mr Speaker, that apart, this is a fundamental aspect of Government business. It is a fundamental aspect for our community, how manifestos are going to be funded, what levels of debt Government expects to saddle the community with in the  
 2585 future – and they never said anything to the people of Gibraltar that they were going to be redefining the debt limits in order to allow them to borrow an extra £200 million.

And yes, I do believe, Mr Speaker, that they are taking a huge gamble. I have described it and I have been the lonely voice in the desert, yes, but if I had the choice I would do it again, even knowing that I was going to lose the election with 6.8 people out of 10. I would still do it again  
 2590 *(Banging on desks)* because I believe, as a matter of deconviction *(Laughter)* that the hon. Gentlemen opposite are taking a huge blind gamble with the future of Gibraltar and that they are mortgaging the future of our children and our children’s children, and no one on this side of the House is going to remain silent or sit idly by and not say something when we believe that the hon. Gentlemen opposite are taking such a blind gamble with the future of the people of  
 2595 Gibraltar.

They say that history is a great educator of men, and I certainly believe that. I certainly, as a historian, believe that we should be learning lessons that have been taught by the way that other jurisdictions have conducted themselves and the mistakes made by other jurisdictions. In Bermuda – that was but 10 years ago held out to be a model of financial prosperity – their debt  
 2600 is 38% of GDP and they are effectively bankrupt. They are effectively bankrupt, and the reason for that is because they adopted a policy of pegging debt to GDP when now they are trying to rail back and they are trying to peg debt to income, because at the end of the day a debt is only prudent and is only safe if you are able to service that debt, and hence why that 80% of revenue is included in the formula.

Therefore, Mr Speaker, for all the reasons that Mr Clinton has given in his speech, which he explained better than I can, the Opposition is going to be voting against this particular Bill.  
 2605 *(Banging on desks)*

**Mr Speaker:** I call on the mover to reply.

**Hon. Chief Minister:** Mr Speaker, here we are debating our public finances again, and I would say that the hon. Gentleman supports the move back to pure sound and the return of the music industry to vinyl, because he really does sound like a broken record. All we have heard from him today is exactly the same things that he has been saying, not as a lonely voice in the wilderness,  
 2615 he has been saying it with the support of all of his entourage during the course of the past three years, and he will not be silenced. I do not want him to be silenced, Mr Speaker. I want him to say it more and more and more. But he is saying exactly the same thing that he has been saying for the past three years, completely ignoring everything I had said in my speech presenting this Bill and everything that the Hon. Mr Bossano had said in the presentation of his own views in respect of this Bill.  
 2620

I must say, Mr Speaker, when it comes to Joe Bossano, there is not an English phrase that can come up to the clarity of the Spanish description of *más claro que el agua*, because the only thing clearer is water – for the purposes of the Hansard translator – because you could not have got a clearer exposition of his views in respect of the position of the British Government in

2625 respect of setting this criteria that applies to other Overseas Territories than you have heard from Joe Bossano, and I think that Mr Clinton enjoyed it as much as we enjoyed it in its clarity and in the depth of its analysis. Mr Speaker, for that reason I know that every right-thinking Member of this House would take Mr Bossano's lessons on every subject – except diplomacy, a subject which he does not declare a forte for one moment. *(Laughter)*

2630 Mr Speaker, let me start by dealing with the intervention from Mr Clinton. I am not going to describe it as erudite or not erudite, I am just not going to describe it – I do not think we are here to describe each other's interventions – but he has noticed that somebody to the right of him wants him to feel flattered and I am sure that there are good political reasons for that, but I am just going to deal with the facts as he put them out there.

2635 He said that net debt was £286 million when we took over, given the numbers I had provided, but that I had failed to deal with the fact that it is £415 million, not today but some months ago when he had the figure. Well, Mr Speaker, he fails to deal with the fact that £286 million of net debt was 26% in terms of the ratio to GDP and that £415 million would be 23% of GDP, calculated as the GDP is today, which would be 3% down. But in any event we are talking about the financial year, and we are clearly still aiming for the £314 million figure, which would put us at 17% of GDP, and our target will be 12.5% of GDP – something which would come within the criteria that he went on to tell us Bermuda was now adopting.

2640 I noted that he was able to download, print and provide to all Members something which is available publicly on the internet, and I encourage him to have that ability also in respect of local documents as he appears to have in respect of international documents. But that is about Question Time.

2645 I did not read the explanatory note on the sixth paragraph of the Financial Secretary's second memo, that of 13th December 2011, because it raised an issue which we were not prepared to countenance, Mr Speaker. I therefore did not read that part of the memorandum. I dealt with the issue of the resolution, which was the issue that I was bringing.

2650 They themselves had dealt with the issue of gross debt in 2009. It was gross debt that was the standard set out in 2008 and they came to this House to change that standard and move it to net debt in 2009. That was the change that they made to the formulation at that time.

2655 Mr Speaker, he said that I had failed to point out that we had £250 million of debentures. I think if he has an opportunity of going through my speech in *Hansard* he will see that I actually did go to the £250 million of debentures. He knows that that is one of the elements of producing income for those who have taken debentures and it is something that was introduced by the GSD – it is the reason why it is there, although there is a move now to the Savings Bank. *(Interjection)* They introduced the concept of the Government debenture, Mr Speaker, and that is why the Government still holds some of those debentures. And the reason that we pay very high interest on those debentures, above market rates, is because they wanted to provide an income to pensioners. This was all set out in the speech of the man they formerly described as the greatest Gibraltarian of all time, when that concept was introduced.

2660 Mr Speaker, why would we need to change the existing rules if all we are going to do is reschedule debt and we were going to change one debt for another? Well, I am surprised that, as a banker, he does not understand that aspect of this. Let me just put it to him in very simple terms. Mr Bossano set it out, but let me set it out again. If we want to take new debt which is lower in terms of the interest paid and for a longer period, because we want to change the maturity profiles of our debt and the interest that we pay, we may not be able to do that on the day that another debt is going to mature. We may have to do it slightly earlier, because we have to repay the other debt with the new debt. And at one point, even if it were momentarily or for a week or a month, we might be holding both debts, the good new debt and the old debt, because we do not want to incur, for example, any break charges on some debt etc. So there may be a need to be holding the more advantageous new long-term lower-interest debt at the same time, and therefore for that period we may need to be at a higher debt ratio. But that is still about flexibility and rescheduling debt; it is not about anything else.

2675



2680 Mr Speaker, he talked about the *non plus ultra*, and that is exactly what the Straits of Gibraltar used to be for the Romans, but we have long worked out that there was an ocean beyond the Mediterranean and that for Calpe today to apply those principles would be not even to go to the United Kingdom to the Joint Ministerial Conference of all Overseas Territories, let alone to negotiate a new Constitution.

2685 But the FCO issues that hon. Members have raised, and both of them have raised it, really ignore the point that is so salient about the reports. He quoted one of the reports, which I have seen. There is a particular memorandum that the Foreign and Commonwealth Office provided to the Foreign Affairs Committee of the Westminster Parliament in 2008 where they set out even more succinctly the position, and I will read it to him, Mr Speaker. It deals with all the points that we have been addressing today, so it is worth having regard to. It is paragraph 20 of the Foreign and Commonwealth Office memorandum to the Foreign Affairs Committee of 2008, and it says this:

To mitigate the risk of excessive Overseas Territory borrowing creating liabilities for the UK

– and thereby demonstrating that Mr Bossano is exactly right when he analyses why the criteria was established –

we [the Foreign and Commonwealth Office] have introduced Borrowing Guidelines for those Overseas Territories that wish to undertake borrowing. The guidelines define three ratios, which together specify a prudential framework for Overseas Territory Governments and Government-guaranteed borrowing. The ratios impose maximum limits for the total volume of outstanding debt and the annual cost of debt-servicing, and a minimum level for Government reserves. If all three ratios are not met, further Overseas Territories borrowing will not ordinarily be approved by the UK Government. Separate (pre-existing) arrangements apply for Bermuda and Gibraltar.

2690 So, pointing to that criteria avails him of no consideration, other than to say that Gibraltar is in a different position.

2695 Mr Speaker, perhaps the Foreign and Commonwealth Office is not the organisation with the best reputation in this House, and therefore let us look for another source of comfort for that provision. The Foreign and Commonwealth Office's 'Managing Risk in the Overseas Territory' document, which is a National Audit Office publication and published on 12th November 2007, says this about the issue of borrowing. Under the heading 'The FCO partially mitigates fiscal risk, by limiting Territories' borrowing and aiding economic diversification', paragraph 1.5 at page 13 starts as follows:

Territories (except Gibraltar) are required to obtain approval by the Secretary of State when seeking to borrow.

2700 So, Mr Speaker, the position of Gibraltar is very different to that of any other Overseas Territory when it comes to dealing with these issues, and we are perfectly comfortable that it should be, because we believe that there is a very good reason for Gibraltar not to be dealt with as other Overseas Territories are in this respect, not least the fact that Gibraltar has enjoyed prosperity for many years now, surpluses for many years now, and is therefore a very stable economy and in particular in terms of the management of its public finances.

2705 He said that these Foreign and Commonwealth Office criteria are important because it is important to keep borrowing under control. We entirely agree. That is not his position and not ours; that is our common position. We believe it is under control and he, I believe for political reasons, is trying to make the case that it is not under control. I would welcome, if that were not the case, that he should clarify it, because the Government certainly believes that borrowing is very much under control and for all the reasons I have given in my speech – if he goes back and looks at it he will see that the ratios to GDP are much better now than they were, and our aim, I hope should be a common aim, to get down even further when we get to £300 million in the context of a GDP of £2.4 billion.

2710

2715 What a difference, Mr Speaker, to when they brought this Bill in 2008, the Public Finance  
(Borrowing Powers) Bill 2008 to this House, which enjoyed our support – and when they came  
back in 2009 they also enjoyed our support. In fact, I am sure the hon. Member has read the  
speeches. Mr Bossano at one stage was thinking of abstaining, or not supporting, but only  
because he thought that the Government was further restraining its ability to borrow – not  
because of the amounts that it might borrow, but because of the ability to borrow being  
2720 restrained – and he was persuaded, by Mr Caruana in fact, that the provisions that were being  
brought were to provide that greater flexibility, and therefore we gave our support to the hon.  
Member’s party when they were making this proposal. Because, you see, the mantra has to be,  
as Mr Bossano set out, not how much you can borrow; it must be what you borrow for.

2725 Mr Speaker, hon. Members can use a better analogy, and perhaps the Hon. Mr Feetham  
might be attracted to this ability that I am going to deploy now to clarify this very complex issue  
in the following way. Instead of thinking of borrowing and finances, which some people find  
daunting, let’s just think of speed. A car can have a maximum speed, the speed limit may be  
much lower than the maximum speed and the driver may choose to go at an even lower speed.  
Just because your car can reach 260 km an hour does not mean you are going to drive it at  
2730 260 km an hour; and just because the speed limit is 120 km an hour, you are not going to drive  
necessarily at 120 km an hour – you may drive at 80 because you may not be such a confident  
driver or you may think that it is imprudent to drive at that particular speed.

In relation to borrowing the same is true. You can set a limit at a particular amount, but you  
do not have to borrow that full amount; and if you do, what do you borrow for? If you borrow to  
2735 pay recurrent expenditure, it has always been a rule of the GSLP that you are, in effect, hanging  
yourself, and you do not do that; but if you borrow for capital projects which are going to  
produce income, then you are borrowing for the right reasons. Sometimes you have to borrow  
for capital projects that produce less income but have a social value, and in that way I think that  
the issue of borrowing being under control is one that is very much on our agenda, that is  
2740 rigorously tested by the Cabinet and by Ministers, and therefore he needs not concern himself  
with the idea that we might be, in some way, out of control. But when he is talking about the  
Cayman Islands and he is talking about Bermuda, two cases I will deal with now – and he failed  
to talk about Jersey; I would have thought that he would have also talked about Jersey, given the  
difficulties that Jersey is going through – he must allow me to say that it almost felt as if he was  
2745 wishing that upon us, because that might in some way prove that they were right at the last  
General Election and we were wrong. I would hope, Mr Speaker, that Members on both sides of  
the House, whatever position they might have taken, on their own in the wilderness or  
otherwise, will only want to see Gibraltar grow and prosper, and if they have been saying that  
borrowing is out of control and it is not, they should be very happy indeed and not disheartened.

2750 Mr Speaker, that brings me to a remark made by Mr Caruana at the ceremonial opening of  
the Parliament last time. The hon. Gentleman thinks he is a red rag to me, and I think I am a red  
rag to him, but my principal political opponent, as far as I am concerned, was Peter Caruana and  
I beat him in a General Election on 9th December 2011, but when he got up in this Parliament to  
speak at the ceremonial opening, he said this:

Mr Speaker, whilst we will hold the Government to account, especially against their electoral promises, the  
Opposition will support, not undermine the Government, where the interests of Gibraltar must come first

– oh, yes, but listen to this bit –

in areas such as economic development, in creating confidence amongst lenders and investors in our economy  
and in Government’s financial strength, or in the defence of our self-Government and political rights and  
aspirations as a people.

2755 Mr Speaker, how are they encouraging the confidence of investors by suggesting that we  
might be in the same situation as Bermuda or the Cayman Islands? It is absolutely impossible to

run with the hares and hunt with the hounds on this issue. But I will deal with why we are not Cayman and Bermuda in a moment.

2760 He also said that one of the issues to also bear in mind, and which the new Cayman Islands strictures provided for, was that PFI arrangements should be on the books. Well, Mr Speaker, the only party who has entered into any PFI arrangements was the party that they represent. The party that they represent entered into a PFI arrangement in respect of the purchase of St Bernard's Hospital. To his credit, the Hon. the now Leader of the Opposition, the then leader of the Labour Party, having recently left the GSLP, said at the time – although I do not know  
2765 what his position was after he joined the GSD – that he was against it. (*Interjection by Hon. D A Feetham*) But, Mr Speaker, that is the position. The PFI arrangement that is on the books of the Government is not one that we put there, and when it was put there it was what they like to say is off balance sheet, not because we decided it should be off balance sheet but because they, when they were in Government, decided it should be off balance sheet. So let's be very clear,  
2770 that is the position that they entered into: a PFI arrangement which was a sale and leaseback. We are not talking about borrowing for the purposes of developing capital projects through company entities. That is also something that they did, Mr Speaker, but in terms of PFI arrangements, that is not a sin that can be attributed to us; it is only a sin which can be attributed to them, and the fact that that it is off balance sheet is something which was their  
2775 responsibility also.

But in any event the Cayman Islands, he told us, in these strictures will have a ratio of debt servicing to recurrent income of 10%. He might have used that as something to avail himself of an argument against this Bill if it was not that we were not changing, that it should be 8% in Gibraltar. In other words, in Gibraltar it is lower. As Mr Bossano said, we are not going for one  
2780 tenth of our income being available to service our debt interest, we are going for one twelfth. What the hon. Gentleman has to remember – and he may not be aware of it – is that Cayman was going through a very, very difficult period indeed in 2010, 2011 and in 2012. The culmination of that was the arrest of Mr McKeeva Bush, who was the Chief Minister of the Cayman Islands, as a result of an investigation which was being run into the manner in which the  
2785 government was disposing of government assets. So the issues afflicting the Cayman Islands were very, very different to an issue just related to what the debt was. There was serious instability in the Cayman Islands at the time. We are not in a position to make any statements about that, but it is obvious that the position now, under Premier Alden McLaughlin, has changed considerably.

2790 Mr Speaker, Bermuda is not a situation where the UK can impose anything. In the first of the documents that I read him from the Foreign and Commonwealth Office I was able to point to the fact that Bermuda also is not covered by the requirement to seek the consent of the Secretary of State to borrow, so this is not a case of imposition, but Gibraltar is in a much stronger position also than Bermuda and we must not go away thinking for one moment that any of the things  
2795 that happened to Bermuda can befall Gibraltar at any time, certainly whilst we are in administration. What happened to Bermuda was that its services became too expensive for its clients in a whole range of areas – some of its financial services and some of its tourist services. I have had long discussions with the current and former Premiers of Bermuda – Craig Cannonier and Michael Dunkley – about how they found themselves unable to sell services to tourists etc.  
2800 because they had become too expensive, and that led to a breakdown of their income which then led to the difficulties that they are experiencing.

Mr Speaker, if there is one thing that we will agree on it is that – whether it is Cayman, Bermuda, Jersey or A N Other – where there is a problem that others go through it would be foolish for us not to understand what that problem was and learn from it. Absolutely right. And  
2805 in that respect you are already preaching to people who I think I have now been able to demonstrate have done the analysis of what was wrong there and understand those issues. None of those issues afflict Gibraltar. But if what we are going to have is an attempt to suggest that we are going to have the same problems as they have had, simply because we are an

2810 Overseas Territory, then nothing could be further from the truth and I trust that they join me in  
 hoping that our ability to manage the affairs of Gibraltar will actually produce a dearth of  
 support for them, at least on this subject, because we will show that Gibraltar will prosper and  
 will not experience any of those issues. And again I am surprised he did not bring up the issue of  
 Jersey.

2815 Mr Speaker, he told us that the panel of experts has understood that in Bermuda the ratio of  
 debt to GDP was 38%, and if there is a panel of experts that is giving advice to Bermuda then I  
 sincerely hope it is good advice for the people of Bermuda and that following it they will be able  
 to once again ensure that their ship is as steady and strong as we in Gibraltar no doubt wish that  
 it should be. And by taking these examples and making these comments I want to make clear  
 2820 that the Government of Gibraltar is making no comment on the current state of the Bermudan  
 economy or the Caymanian economy, because we have no expertise to comment in respect of  
 any of them – we are simply working on the basis of the reports that we have seen. But we  
 certainly wish them all the very best indeed ... And that the experts, he said, in Bermuda had  
 recommended that the debt to GDP ratio should be 15%. Mr Speaker, I would have thought if he  
 2825 had wanted to reply to me – but I saw that he had a prepared text, and one is often tempted to  
 simply read and get it off one’s chest – that he would have paused there and congratulated the  
 Government, given that ours is presently 17%, or will be at the end of the financial year when  
 we reach £314 million on a GDP of £1.8 billion, and that we are aiming for 12.5%. So the  
 reference, I would have thought, would have been to applaud the fact that we have reduced the  
 debt to GDP ratio from 26%, as it was when we inherited it in 2011-12, to 17% now and that we  
 2830 are aiming to 12.5%.

My conclusion, Mr Speaker, at that moment was that, actually, perhaps on reflection, and  
 given that he is neither a red rag to me and nor do I think I am a red rag to him, that on  
 reflection, and when he reads my speech now, and perhaps during the Budget debate and after  
 my speech on the Budget debate, despite his views as to whether I am good with numbers or  
 2835 not – I think that is irrelevant – that he might actually ask me for a membership form of the  
 GSLP, or perhaps even of the Liberal Party if he cannot come to terms with joining the GSLP.

But, Mr Speaker, given that he was recommending that we should be aiming for a Bermudan  
 15% GDP debt ratio, and we are aiming for 12½%, I would have thought he would have said  
 very well indeed, especially because if he had been aiming for 10% I would have thought, ‘Well,  
 2840 he has set a higher standard,’ but he went into a General Election telling us he was going to take  
 the debt limit to £900 million. They were going to take the net debt to 50% of GDP. They were  
 going to take it to 50% of GDP out of £1.8 billion, Mr Speaker. So, look, if he had set a lower  
 standard, perhaps I would have accepted that he might not want to come over – but I accept  
 these things can be embarrassing and he may just want to sit where he is for now and eventually  
 2845 make another sort of political decision.

It is contrary to good government to borrow more than you can repay – absolutely,  
 Mr Speaker, absolutely, we agree, and that is why we would not put Gibraltar in that position.  
 That is why we have worked to bring the ratios down. That is why they are now in a lower debt  
 to income ratio and debt to GDP ratio, Mr Speaker.

2850 The hon. Gentleman talked about us being able to go up to £616 million of debt – he knows  
 the calculation I did was slightly different to the one he did – and I have told him already, in my  
 speech, Mr Speaker, that this was not going to happen and I explained to him why we needed  
 the flexibility already, but he went on in his speech to say how terrible this was. But, Mr Speaker,  
 he went on television and his leader went on television and told us that the only safe thing for  
 2855 Gibraltar to do was to go to £900 million. Well, look, Mr Speaker, I do not know how they  
 reconcile it, but there is one thing that I learnt today about the hon. Gentleman, or had  
 confirmed today about the hon. Gentleman, that I sincerely believe is to be commended, and  
 that is that he reads *The New People*. (Laughter) I had heard that his reading of *The New People*  
 had got him into very hot water indeed (Laughter) with the Knight of the Realm formerly known  
 2860 as the greatest Gibraltarian of all time, and that that hot water had led him to walk out of a

meeting and never walk back whilst that man was still the leader of that party, Mr Speaker. (Laughter) The only reason I know that is because I read it in *The New People!* (Laughter) Given that the hon. Gentleman gives it such credibility, it must be true, Mr Speaker. It *must* be true.

2865 He then went on to talk about the question of why it was that we needed the greater amount of flexibility if we were just going reschedule debt, and I have explained that to him. But he then went on to deal with the other limb, which was the question of whether recurrent revenue had in fact fallen to such an extent that this was why we were having to decouple from the recurrent revenue criteria. Again, I sense – but I am prepared to accept it was not there if he tells me it was not – an angst that that should be the case, a desire that recurrent revenue had fallen  
2870 through the floor and that this would cause the Government a huge problem. He is shaking his head, so I take it in good will from him, Mr Speaker, that he did not wish for that to be the case and that if I detected that sort of thing in his intervention it was not the case – because he would have been very disappointed if that is what he had wished for, Mr Speaker. In fact, he would be very disappointed indeed, if that had been the case, to hear that recurrent revenue is holding up  
2875 very well indeed. He has no need to worry himself, Mr Speaker.

But let us not do ourselves out of a Budget debate where we deal with all of the actual numbers of recurrent revenue as they will be declared to have been for this year by the Treasury when we come to look at the Estimates Book for 2016-17 when we all have it available. He seemed to have relied, however, on *The New People* almost as if it were a Bible, Mr Speaker, and  
2880 took what that publication had said about the reason for the publication of this Bill – and other commentators have commented as well. I am surprised he only chose that one. He needs to understand, Mr Speaker, that Bills are presented for the reasons that hon. Members who present them set out in this House in their speeches, they are presented for. Not for the reasons that *The New People* might set out. So it is my speech that matters, not what he reads in *The New People* that matters, but I understand that he was preparing himself for this debate on that  
2885 basis.

Well, Mr Speaker, what can I say to him? The fact is the Government has set out its reasoning in the Second Reading. I am now replying to what they have said. But there is a point more important even than the point in *The New People*. Hon. Members issued press statements at the  
2890 beginning of this year, in fact when the year was still in the single digits of January, dealing with this Bill and giving us their point of view. The hon. Member then wrote to me, in a letter which I believe I have replied to and he believes he has not had a reply to, telling me how imprudent he believed that this was and passionately suggesting that I should change my views in relation to it. Part of my reply tells him that I was surprised that he had taken that attitude without hearing  
2895 what it was that we had to say, because he took that attitude without listening to the presentation I had made about the flexibility required and he asked a question about why we needed that flexibility in his intervention. I have now replied to it, Mr Speaker.

The hon. Gentleman needs to understand, as a young whippersnapper of a parliamentarian that he is, that we tend to wait until we are here in our interventions at the Second Reading to  
2900 make up our minds about legislation, because the Parliament is otherwise useless. If we are going to publish something and we are going to hear what their attitude is and they are not going to support it before we come to Parliament, what is the point of having a parliamentary debate on a Bill? Others might wish to comment, but when we are here we present our reasoning for a Bill, they present their views, usually after they have heard us. Sometimes they  
2905 might come with a prepared speech. But I would have thought if they want to hear us and why it is that we are presenting a Bill ... and then make up their minds, however much research they may want to do in the interim ... But, Mr Speaker, that should not dissuade him from continuing to read that excellent weekly publication that is *The New People*, the oldest weekly publication in Gibraltar – a very good reason for Members to continue to read avidly that publication.

2910 Mr Speaker, the hon. Gentleman then reminded us of the tips that CAB have put out for people who may have got themselves into a difficult position in relation to debt: do not bury your head in the sand and think carefully about taking more. I entirely commend those tips to

them. The economy of Gibraltar is doing very well indeed. Borrowing is very much under control. However much they might wish to drum up support for their idea that things are not going well, people have a very good litmus sense as to whether things are going well or not, and they determined at the last General Election – by seven out of 10, when rounded up to the ‘wholest’ human (*Laughter*) – that actually things are going very well indeed, and they are sticking their heads in the sand like ostriches by continuing to say that things are not going well.

Mr Speaker, it is true that his letter contained a proposal to change the definition of aggregate public debt. I wrote back to him telling him that the Government agreed that there should be a change in that respect and that we were going to bring a different amendment which we will be moving at the Committee Stage. I trust that he will be able to agree it.

And then, Mr Speaker, almost at the end of his presentation and in what I thought was an attempt at dramatic flurry, he reminded us that it is a fiduciary duty of a government not to incur more debt than it is able to repay. He said it is a dangerous road indeed that we go down if we forget that. If it is any consolation to him, we do not think it is just a fiduciary duty; we think it is part of the sacred trust that is deposited in us by the people of Gibraltar in those ballot boxes that we should always be more than prudent and ensure that the economy and the public finances are safe in our hands. We would never put that in danger or at risk, Mr Speaker.

‘Is there a desperate need for cash?’ he says. There is no desperate need for cash. I have explained to him why it is that we are doing what we are doing. At that time, when he was saying those things, because he had them in his prepared speech he was in effect ignoring everything that I had told him. It was almost as if this had been a dialogue of the death. I had made a speech and he got up and made a speech, which did not reply to mine; it was just the speech that he felt appropriate he should make. I trust, Mr Speaker, that I have demonstrated to him, in getting up now and replying to the detail of what he said, that perhaps I am not so bad at numbers and that in fact what we need to do in this House is engage in debate, rather than just deliver set speeches.

I am delighted that he has indicated that he does not wish upon us the difficulties that we have seen afflicting the Cayman Islands and Bermuda, and therefore with this part of my reply I hope that I have satisfied many of the things that he raised during the course of his intervention.

Mr Speaker, then the Hon. Mr Feetham got up after Mr Bossano had spoken and spent much of the first part of his speech describing Mr Clinton’s demeanour and ability – and, as I have said before, whether somebody is erudite or not erudite is really not something that is going to concern the Parliament when considering a Public Finance Bill.

But then he moved quickly to say that this Bill shows that we successfully pulled the wool over the eyes of people at the last General Election. Mr Speaker, how can it be that we successfully pulled the wool over the eyes of people at the last General Election if the hon. Member had listened to any of what I had said and understood any of what I had explained to the House as the reasoning behind this Bill? It can only be one of two things: either that he did not listen or understand; or that he believes that I am somehow presenting a case for this Bill which is different to the reality of what is actually the position. Because I have told him that it is not about borrowing more; it is about changing the profile of our debt. But he does not just stop now about what it is that I am doing with this Bill. He goes back and says that the seeds of future problems for Gibraltar were sown in 2011 when we came up with £750 million in capital projects in the last four years. Doesn’t he know that they spent more in their last four years in office than we spent in our first four years in office? I know he is not looking at me, but I really want him to understand because I do not like him to make the same mistake twice. He said it before, and I do not want him to have to say it again. He said that £750 million was far too much to spend in four years, and they spent more in their last four years in office ... unless that is also one of the things that they are decrying about the manner in which the man formerly known to him as the greatest Gibraltarian of all time had run the Gibraltar economy. Look, he needs to reconsider.

But then again, Mr Speaker, should I stop him when he is making a mistake? Only when the way that he does it calls into question Gibraltar’s public finances and therefore goes against

2965 what Mr Caruana was saying an Opposition should do, which was to assist to create confidence where it is in the interest of Gibraltar to do so in areas of economic development and creating confidence amongst lenders and investors in our economy. He does the opposite.

But I am going to set him a challenge, Mr Speaker, and the challenge is this. Given that he says that we have sown the seeds of our problems for the future, it is a very simple challenge indeed: will he be prepared to stand up and applaud us if all the problems that he says he has been pointing out in the wilderness turn out not to be the case and actually what we continue to provide future prosperity for our nation in exactly the way that we predict in our economic plan and in the manifesto, which he said he read so avidly, at least in respect of the bits that the Hon. Mr Bossano was responsible for writing? Well, at least we *had* a manifesto, Mr Speaker.

2975 He said that you do not have to be an economic guru to realise that we could not afford the £750 million, which was less than the amount that they, when they were the economic gurus, had spent in their last four years. Well, you know what? I do not believe that gurus should be the standard. I believe that the people who are wiliest, who are best able to work out who is telling them the truth, what is or is not in the best interests of our community, are the people of this nation – and by 68% they decided that what we were doing was not sowing seeds that would cause problems, but actually that we were doing the right thing for the prosperity of our nation. And Mr Bossano explained exactly why it was the right thing to invest in our future, to invest in jobs in Gibraltar, etc. Of course, what he is saying is that 68% of our electorate are easily duped – and that is a huge disrespect, not to us but to the general public and to the voters of this community.

2985 He then went on to say that the changes in the Savings Bank Act had moved away from liquidity etc. Well, Mr Speaker, Mr Bossano has dealt with issues relating to the Savings Bank today and nauseam and our analysis is different to his, as he knows, but he should recall that the debt interest that the Government had taken on in Government debentures amounted to approximately £9 million a year just being paid to pensioners in those debentures.

2990 And then he became very impassioned, talking about his obligations as Leader of the Opposition. He does that. Hon. Members opposite should not be surprised that they will see this happen once in a while – he will get very impassioned, talk about how won't shut him up etc. We have no intention of shutting him up. In fact I want to encourage him to continue in that vein, Mr Speaker. But the people of Gibraltar have been very astute indeed in the last Election. They have agreed with the analysis that I and Mr Bossano have been making about the way that we have invested this money.

3000 Mr Speaker, then he went on to say at one stage that £47 million was the amount available for borrowing, that the debt ceiling was £47 million away. He does realise, doesn't he, that that is £31 million more than the position on the day that we were elected after they had been in administration: £31 million more. He has got to at least give us credit for that. If the position was £47 million of available credit, well, it was £31 million more than they had.

And then he accused me of making sneaky commitments in letters to teachers.

3005 **Hon. J J Bossano:** Not overtime, I hope.

**Hon. Chief Minister:** Certainly not a commitment to pay teachers overtime, Mr Speaker. We only heard of that today. *(Laughter)*

3010 We obviously have different models of politics, Mr Speaker. I believe that telling people what you are going to do, understanding what it is that they want addressed and dealing with it in writing so that it is clear and it becomes your commitment to them is the right thing to do. They might believe in just saying something to people in the streets, trying to gain their confidence, trust and therefore their vote, and then not doing it. But not all of them, Mr Speaker.

3015 I do not think that is sneaky; I think that is the right way to do things. And neither do all of them think that that is sneaky, because I saw and I reminded him the other day ... I saw an email from Mr Reyes to the Gibraltar Darts Association promising them premises after the last

election, and I did not see that in the manifesto. So I am pleased to see that other people in his party take the view we take, that things should be in writing so that the commitments are clearly recorded and that sneakiness is left to those who will not stick their colours to the mast.

3020 The Government, he said, ought to have been honest with the people of Gibraltar, to set out the fact that he says we are the opposite. Well, if there is one thing that we are it is absolutely honest with the people of Gibraltar and we will never be anything but, Mr Speaker. People are good judges of character and that is why they have put us here twice and they put him there twice. In fact, they put them there with the second lowest result in the history of politics in  
3025 Gibraltar, so I think people are being very astute indeed.

Then he went on to say that we are going to borrow more and that is why we have brought this Bill etc. Well, I have answered those points and I dealt with those issues in my presentation, and I have told Mr Clinton the circumstances in which we may increase the debt etc. This is *not* about borrowing more; this is about flexibility. Mr Bossano has explained that flexibility, not just  
3030 today – Mr Bossano explained that concept in 2009 in the way that he replied to the then Chief Minister’s presentation of the Bill at the time, in 2008 at the time that he made the presentation of the Bill at the time, and in 1988 when he brought the first Borrowing Powers Bill to this House.

He then went on to say that this was a fundamental aspect of our community and that we are going to saddle our community with debt. Well, we are not going to saddle our community with  
3035 as much debt as we found it with, Mr Speaker. I have already demonstrated that the debt is going down.

He said that we are taking a huge gamble. Well, I have been hearing that language now for the past two years. I have seen the advert with the attractive cartoon depiction of me. People  
3040 did not buy it. He can go on ... I am not going to stop him saying it, he can say it for as long as he likes, but it is nonsense. It is absolute and utter nonsense. We are not going to mortgage our future. The only mortgage I would advise the people of Gibraltar to enter into is one for a very long period of time at a very low interest rate if it was in the interest of Gibraltar to reschedule its debt in that way.

3045 He said he would not be silenced or sit idly by. Well, I would be apoplectic if he did not continue to make his case as he has been doing so, because I then would find it much harder for us to persuade people as successfully as we have of why we are doing things right and they are not.

Mr Speaker, I think that has dealt with all of the points that hon. Members opposite have  
3050 made. I do think that there is a need for me to say much else, but I would just deal with this point. The net debt of Gibraltar today has been reached on the basis of us delivering everything that we promised to deliver in 2011. It has not yet been a hundred days since the last Election – in fact, it has been 98 days since the last Election. We are already moving to deliver on our new manifesto. But what they did not do at the last Election, and I put it to them that they will have  
3055 to do at some stage, is that if they are against the level of the net debt today, if they say it is all too high they need to tell us – beyond No. 6 Convent Place, which is the project they do not like – which of the things we have done that they would not have done. Would they not have employed the 47 new teachers, although they believe teachers should even have overtime, let alone not be on permanent supply? Would they not have made the repairs to the affordable  
3060 estates that were occasioned as a result of the works done whilst they were in office? Would they not have repaired the MOD properties that were in such a terrible state of disrepair? Would they not have repaired the MOD properties that were in such a terrible state of disrepair? Would they not have built more affordable homes, although now they chase us on how they are being allocated? Would they not have increased the public sector by one individual? Although they chase us to do more about tobacco, don’t they support the 60 new Customs officers? Given  
3065 that they want us to fill all the vacancies in the Civil Service, surely they must believe that we need to be spending more in recurrent expenditure if that is what they are encouraging to do. Or is it that they want us to pay overtime to teachers and have 17 full-time IT technicians in the



schools? Because, when they are making those points they do realise they are urging us to spend more, don't they?

3070 Mr Speaker, I am very comfortable in the skin of the Chief Minister who has led this community to the prosperity that it enjoys today after the great four years that we have experienced of our economic management, I am very comfortable with the work that we have done with the money that has been put at our disposal by the hard work of this community, which has produced the recurrent revenue that we have today, and I have heard nothing, 3075 Mr Speaker, in any of the speeches of hon. Members opposite to persuade me to do anything other than to commend the Bill to the House. *(Banging on desks)*

**Mr Speaker:** I now put the question, which is that a Bill for an Act to amend the Public Finance (Borrowing Powers) Act 2008 be read a second time.

3080 Those in favour? (**Several Members:** Aye.) Those against? (**Some Members:** No.) Carried by Government majority.

**Clerk:** The Public Finance (Borrowing Powers) Act 2016.

3085

**Public Finance (Borrowing Powers) Bill 2016 –  
Committee Stage and Third Reading to be taken at this sitting**

**Chief Minister (Hon. F R Picardo):** Mr Speaker, I beg to give notice that the Committee Stage and Third Reading of the Bill be taken today, if all hon. Members agree.

3090 **Mr Speaker:** Do all hon. Members agree that the Committee Stage and Third Reading of the Bill be taken today? (**Members:** Aye.)

**Parliament (Amendment) Bill 2016 –  
First Reading approved**

**Clerk:** A Bill for an Act to amend the Parliament Act.

3095 **Mr Speaker:** Before we proceed, before I call upon the Chief Minister, I should inform hon. Members that I have received a letter from the Chief Minister certifying that under the provisions of section 35(3) of the Constitution the time required for consideration of this Bill should be abridged (**Hon. D A Feetham:** Why?) on the grounds of its urgency. The Chief Minister considers this to be an urgent Bill. No doubt he will explain in more detail in the course of his moving of the Bill why that is the case.

3100 The Hon. the Chief Minister.

**Chief Minister (Hon. F R Picardo):** Mr Speaker, I have the honour to move that a Bill for an Act to amend the Parliament Act be read a first time.

3105 **Mr Speaker:** I will put the question, which is that a Bill for an Act to amend the Parliament Act be read a first time.

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

3110 **Hon. Chief Minister:** Mr Speaker, I have the honour to move that the Bill now be read a second time.

Mr Speaker –

**Mr Speaker:** Hang on a moment. Carried.

**Parliament (Amendment) Act –  
Second Reading approved**

3115 **Chief Minister (Hon. F R Picardo):** Mr Speaker, I have the honour to move that the Bill now be read a second time.

Mr Speaker, I have heard what the hon. Gentleman has said during his earlier intervention in respect of the Select Committee in respect of this issue. He also usefully read the House – and given the hour, I am not going to repeat – what it was that the Select Committee recommended should be the case after the General Election ... (*Interjection*) the Commission on Reform had recommended.

3120 Mr Speaker, many things that that Commission recommended have been done, even though the Select Committee has not reported. In this instance, I have had indications that this is a Bill designed to do the new Members opposite out of something, and I hope I will be able to demonstrate to them that it is actually quite the opposite. It is a Bill designed to protect hon. Members for the following reason.

3125 The new schemes which are applicable to members of the Civil Service joining after 1st January 2012 are contributory schemes. In other words, you start to contribute from the moment that you join the Civil Service and you create a pot for yourself which then you are able to contribute more or less to etc. The old scheme is a non-contributory scheme, so under the old scheme there is no contribution in the Civil Service but you have a final salary at the end.

3130 That is not exactly the position for Members of this House. Members of this House, under the old scheme, must do 90 months before they are able to qualify for a pension. In other words, if you do 89 months you do not qualify for a pension. If any of the hon. Members opposite who are new Members were to decide not to stand at the next election, no pension. If they stand at the next election and they become Ministers or they continue to become Members who are in opposition, and whoever is the Chief Minister calls the election on the 89th month – and that does not have to mean a very great shortening of the period – no pension, and if they then decide not to continue or they are not elected, no pension. They have done almost eight years here and no pension.

3140 That is not a fanciful position. There is one particular individual, who was a Member for Parliament with the GSD – he was a Minister from 1996 to the early 2000s – who misses out on a pension, as presently structured, by a month or two, right? That is something which should be looked at; it has happened to others in the past. But essentially ... Some people say the rule should be two terms, or not 90 months, because 90 months is two terms, and then if a Chief Minister decides to call it earlier, well, you have done two terms and you should not suffer because a Chief Minister has called an election earlier.

3145 Today, the hon. Gentleman read out that the recommendation was that after the election of 2015 the new scheme should have been in place and the Select Committee, which was supposed to report in six months, has taken two years to report and has not reported yet and nobody has put in place any reporting for anybody to give us advice on salaries or pensions.

3150 Today, hon. Members will have been Members of this House for two and a half months, or three months, since the ceremonial opening. What this Bill will do, and I want them to understand it and why it is urgent is that they will be able to contribute immediately – in my view, from the date of the election – towards their pots, and the Government, the Parliament, will be contributing as well from the date of their election. So, from their first salary, which I think was December, they would make the contribution – they have an option as to what that

3160 contribution should be – and the Government would make their contribution as well. In the event of them not standing again in four years or leaving earlier, their pot is their pot and they can take it. If they do eight years, their pot is their pot. If they do 12 years, 14 years, 16 years, their pot would be their pot and they would have it from now, Mr Speaker.

Should there be a decision – I cannot imagine any circumstances when this would happen – where hon. Members were to ascribe to themselves the final salary scheme, which was non-contributory, whilst denying it to the Civil Service, they would have both the final salary scheme and they would have this. I think it would be an absolute scandal if that is what they proposed to do, because you could have as many pensions as you like – this is a contributory scheme and I think it would be an absolute scandal. But given that it would be an absolute scandal, and I am sure that politically they see it would be an absolute scandal for them to try and get for themselves that which they, when they were in Government, stopped for the Civil Service ... and therefore, as we are moving to a contributory scheme, we have to allow them the possibility of moving to it as soon as possible. And therefore, if they decide, *lo Bueno que soy*, if they decide not to stand again, they have got four years in their pot, if they continue they have got as many years as they like, and it is now quick and soon enough that the Government will go back and make the contributions from their first salary, from December. Right, Mr Speaker.

3175 I have seen that the hon. private Member has put a motion proposing that we deal with this and that we once again outsource this, in the terms of the Commission, to third parties. That, Mr Speaker, is an issue we are going to deal with dealing with that motion. We think it is an issue for the Select Committee. We agree that the Select Committee should make that recommendation, it should come to Parliament and it should happen. If that body – whichever body it may be, whoever it may be made up of – recommends something different, it is very easy for hon. Members to be given an enhancement or to be given a reduction, or whatever it is that that body provides for. But if we do not move now to enable them to make the contribution and to have the offer made to them ... They do not have to do this, it is completely voluntary. The Chief Secretary will make them the offer – probably the Clerk, in the case of Members, but the Chief Secretary or the Clerk will make the offer. They can then enter the contributory scheme, they can start contributing and the Government will go back and contribute from their December salary.

3180 The alternative, Mr Speaker, is that they are without a contributory scheme because there is no provision to offer them a contributory scheme, and they are without the final salary scheme, because there is no question of the Government agreeing to extend to them the final salary scheme, especially given the recommendations of the Commission, which were public, especially given the fact that the final salary scheme is something that they stopped for all new entrants to the public sector. But if they want to make that case, they can still make it despite this; this just protects them and gives them the opportunity of making contributions from now, with contributions from the Government also from the date of their first salary package.

3195 And so, Mr Speaker, for all those altruistic reasons by which I look out for the five new Members of this House in my obligations as Leader of this House to do so, I commend the Bill to the House.

3200 **Mr Speaker:** Before I put the question, does any hon. Member wish to speak on the general principles and merits of this Bill? Yes.

3205 **Hon. Ms M D Hassan Nahon:** Passing unilateral laws that are carefully designed to only affect one side of the House does make me very nervous, and it makes me wonder whether this is the beginning of the end of democracy. This is not about me and my pension rights or the different element of a pension. This is about the fact that the Government has come up with a scheme and designed a scheme that is only affecting one side.

I would like to know why exactly October 2015. Why not back to 2011 or 2007? How come only as from the newcomers that were only on the GSD side? It makes me worry because this

3210 new Bill seems designed only to affect one opposing party, and it is reminiscent of that part in George Orwell's *Animal Farm*:

All animals are equal but some animals are more equal than others.

I urge, Mr Picardo, that you reconsider this terribly unjust Bill because it is retrospective and you are the party that set up the Ministry for Equality. To me, this goes against equal opportunities values, and I urge you to live up to those values. (*Banging on desks*)

3215 **Mr Speaker:** The Hon. Mr Roy Clinton.

**Hon. R M Clinton:** Mr Speaker, having worked in the private sector for many years, in fact all my life, I am only too aware of the cost of final salary pension schemes, which are now becoming practically ... very hard to find in the private sector because of the cost.

3220 Having seen this Bill, again I fail to understand the urgency for this Bill, because this can go to the Select Committee and the Select Committee can issue their recommendations. What I find hard to understand is why the Members opposite, or in fact the other Members of the House who were previously elected, should be allowed to retain their non-contributory final salary scheme to the detriment to those of us who are new to this House. If the principle is it is not fair because the civil servants no longer have access to this, well, fine, Mr Speaker, we should abolish it for the whole House and not for the new five Members. Maybe that is something for the Select Committee to consider.

3225 Furthermore, without wanting to embarrass any Members of this House, I understand that it is the practice that Members who are over 55 may cash out their pensions at the end of any parliamentary period, which, to be honest, I was very surprised about this. Perhaps those who have cashed out should be on the new scheme and not on the old scheme.

3230 Again, Mr Speaker, I feel that these are things perhaps left to the Select Committee to consider on a non-partisan basis, because at the end of the day, as I keep on saying, we are servants of the people.

3235 **Mr Speaker:** The Hon. the Leader of the Opposition.

**Hon. D A Feetham:** Mr Speaker, when I came to consider last week about our position in relation to the constitutional one and the formation of the Select Committee on Constitutional Reform, what the Government is actually doing here, actually it did play on my mind in terms of our approach to that, because here you have a Select Committee on Parliamentary Reform that has been set up, and we were assured, in 2013 I think it was when the hon. Gentleman brought the motion to the House, that the recommendations of the Independent Commission would be considered by the Select Committee, the Select Committee of this House would then make recommendations, and that it would not be a unilateral decision by the Government of the day as to which ones they implemented and which ones they did not.

3240 The hon. Gentleman has, during the course of an earlier intervention and this intervention, spoken about some of the measures that were implemented without regard to the Select Committee. But actually, when you read that debate you will see that we were in favour of the televising of Parliament, we were in favour of the monthly meetings of Parliament. But in relation to the other recommendations that were being made by the Independent Commission it was quite clear that the hon. Gentleman gave a commitment to this House and to those Members of that Select Committee that he would not go it alone and that it would be discussed within the Select Committee and that he would allow the Select Committee to make a recommendation – that does not mean that we have a right of veto; of course not, because they have got a majority in the Select Committee – but what he would not do was precisely what he is doing now, and that is why I am sceptical about assurances that the hon. Gentleman makes

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and gives me in relation to the motion on the constitutional reform. Look at how he is behaving in relation to this.

3260 Mr Speaker, it is all very well for the hon. Gentleman to come to this House almost like a financial adviser saying, 'But you're all going to be better off,' but it is not affecting him, it is not affecting the Members on that side of the House, it is not affecting me. Yes, it is not affecting me and it is not affecting Mr Reyes, but it is not affecting *them*. They are the movers of this particular Bill. It is not affecting them and – rightly, as Mr Clinton has pointed out – it is also not  
3265 affecting those on that side of the House, one of whom was very vigorously bashing on the table, who have cashed in their pensions.

Mr Speaker, I can now start the restart of the clock in terms of the future. It does not affect them. It does not affect them, but it affects five new Members on this side of the House who are now going to have their pension rights affected retrospectively.

3270 I also remind the hon. Gentleman of the answers that he gave in Parliament, I think it was last week, and I just wonder how far the answer that he gave me last week had played a part in him certifying that this Bill is urgent. Because last week – and when he was answering the question the penny had not dropped, but it dropped afterwards – last week what he said was that in relation to the 47 teachers who were on supply and had this claim at this Election ... They were  
3275 taken on ... so that people who are listening understand it, 47 supply teachers that they took on, post the 2011 Election, and in relation to those 47 school teachers, who were placed on the contributory pension scheme, even though some of them, as he rightly pointed out, had already started on supply, I think he said, three months before the Election – three months before the election, Mr Speaker, that is the time limit that he used – and there was a claim that was made  
3280 on behalf of those 47 and he took the view, 'Well, actually, because they started before the General Election, albeit some of them only three months, we do not want to affect their rights retrospectively and we think they should have the same acquired rights' – because they were not changing their rights retrospectively, because they were supply teachers, but anyway, they should have the same rights as those who had come into the Civil Service prior to 2011.

3285 Well, Mr Speaker, my five colleagues, who all do not want the Hon. Member – it does not matter what advice the hon. Gentleman comes to this House with – do not want to have their rights and pension rights affected retrospectively, they are in exactly the same position, because they were elected in November, and lo and behold this Government comes to this House with a Bill in March.

3290 Mr Speaker, I urge him – for the sake of attempting to have that constructive relationship between the Opposition and the Government in relation to not only the Select Committee and the work of the Select Committee on Parliamentary Reform, but others – show us that the hon. Gentleman is capable of at the very least being fair in relation to this. He is not being fair in the light of what he told this House, in the light of the assurances that were given to me when I  
3295 formed part of the Select Committee in 2013, when I was part of the Select Committee in 2013, that he was not going to unilaterally be making decisions outside that Select Committee.

And you know, Mr Speaker, my five colleagues, who obviously feel uncomfortable with the situation because they are advocates in their own cause, because it affects them ... It is quite understandable that the hon. Gentleman is placing them in that situation, but it is not right that  
3300 the hon. Gentleman should use the power that is vested in him as Chief Minister of Gibraltar, backed by a Government, to affect retrospectively, and affect the rights of just simply five Members of the Opposition.

If he were to just amend this Bill and for this Bill to say 'this part does not apply to a person who *after* the 31st December 2015 has become an elected Member' instead of October 2015,  
3305 well then anyone who stands for election next time round knows that this is the law and that therefore their pension rights are going to be determined in accordance with the law. But what he is attempting to do is, after people have been elected, is affecting their rights retrospectively.

Mr Speaker, I have gone on for too long, but I just ... I do not hold my breath that I will be able to appeal to the hon. Gentleman's sense of fairness, because as I say, nothing that I can say

3310 is ever going to persuade the hon. Gentleman. But if he does not want to take my views on board as to why we are voting against it, well maybe the hon. Gentleman will listen to the hon. Lady's impassioned speech as to why hon. Members ought not to proceed in the way that they are proceeding.

3315 **Mr Speaker:** The Hon. Elliott Phillips.

**Hon. E J Phillips:** Just to add to the Leader of the Opposition's comments in relation to the amendment, I understand from the amendment to the Act that that would also remove and dis-apply directly those provisions that deal with death in service under section 97-98 of the current Parliament Act. It would be helpful if the Chief Minister could also confirm the position in relation to that.

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**Mr Speaker:** Does any other hon. Member wish to speak on the Second Reading?

**Hon. R M Clinton:** Just as an afterthought, Mr Speaker –

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**Mr Speaker:** You have spoken already.

**Hon. R M Clinton:** Oh, sorry, my apologies.

3330 **Mr Speaker:** In committee, you are able to rise again on a particular clause; not on the whole thing, but you are able to speak on each clause separately.

Does any other hon. Member wish to speak?

I call on the Hon. the Chief Minister to reply.

3335 **Hon. Chief Minister:** Mr Speaker, I really do not believe my ears. First of all I am accused of passing unilateral laws. Well, I do not know what a unilateral law is. I may have just passed one because they did not support the Public Finance Bill, but that was not referred to as a unilateral law. I forget which are the other ones they have not voted in favour of – are they all unilateral laws?

3340 Mr Speaker, this is a serious place where we have to put serious arguments. It is not about *Animal Farm* and all animals being created equal; it is about the policy of *their* party. The hon. Lady seems to forget that the most trenchant advocate against the final salary scheme is no longer here: it was Peter Caruana. He was the one who said that the final salary scheme was a noose around the neck of Gibraltar, and that it was ended as from 1st January 2012 and closed for good.

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**Minister for Economic Development, Telecommunications & the GSB (Hon. J J Bossano):** A ticking time bomb.

3350 **Hon. Chief Minister:** A ticking time bomb, he used to say it was.

All we have done is ensure that those who were employed before that date continue to have the benefit of that scheme. This is not a Bill that affects only one side; this Bill could affect anybody who is elected with us in the future.

3355 The fact is that hon. Members have got up and have completely ignored what I have told them. Look, it is very simple. Let me explain it to them again. We will have a Select Committee. The Select Committee, not this House when it deals with a motion, will appoint that independent review. They can make whatever submissions they want in that independent review. If they are able to persuade the independent review to recommend that they should have the final salary scheme, and then that is accepted by the Committee or by the Parliament,

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they can have the final salary scheme, because they do not have to contribute anything to the

final salary scheme. All we would need to do is amend the law, because that would be the recommendation of the Committee. If we do not do this apparently unilateral law today, and whoever it is that we appoint does not say that they should have the final salary scheme, where are they? What are they left with? Say that takes three years, what are they left with? They have to go into the contributory scheme *then*. Are they going to make up the payments for three years *then*? Are they going to then continue to pay? Mr Speaker, it is very simple: they can have their money back after three years, if that is what is recommended, and they can go on the final salary scheme. I really do not see what they have worked themselves up into a frenzy over. All I am doing is giving them the opportunity – they do not have to take it, by the way; it is the opportunity – to enter into a contributory scheme today. Should they ever win Government, should they ever persuade an independent body that this is the right way to go, then they can have their final salary scheme and they can either ... In fact, I was wrong. They can either have their money back or they can continue with a contributory scheme as well, if they like, because a contributory scheme is a pot. I think the Government would stop contributing, because if the Government is contributing and also giving them final salary it would be too much, but they could continue to put 8% into a pot, if they wish.

We are not doing away with anything that they have, Mr Speaker. Or is it that they do not realise that they do not have a pension at the moment? No one who has been elected at the last Election, or even at the former election, has yet got a pension. They have to do the 90 months. This gives them an opportunity to have a contributory pension. Yes, it does. The hon. Lady is shaking her head. This gives them an opportunity to have a contributory pension as from today, and if it is determined that they should have a final salary non-contributory pension in the future, they can have that as well and they can take the money out of the pot –

**Hon. Ms M D Hassan Nahon:** It is not about the money.

**Hon. Chief Minister:** Well, if it is not about the money I do not understand what it is about.

**Hon. Ms M D Hassan Nahon:** It is about equality.

**Hon. Chief Minister:** Mr Speaker, if it is about equality she is sitting with the wrong party, (*Laughter*) and I will tell her why: because *we* did not stop the final salary scheme. We have now got civil servants working next to other civil servants who are not on equality (**Hon. J J Bossano:** Exactly.) because of *their* policy to get rid of the final salary scheme. So you have got civil servants making contributions to a defined contribution scheme next to civil servants on a final salary scheme – because of GSD policy implemented by the GSD.

What we did was we said it would be unfair for somebody employed before that bit to not have the benefit of the final salary scheme. The final salary scheme has gone, and whilst we are in Government they will not persuade us that they should have extended to themselves the benefit of a non-contributory final salary scheme which they have taken away from civil servants (**Hon. J J Bossano:** Exactly.) and which their former leader described as a ticking time bomb and as a noose round the neck of Gibraltarians. But if they are able to persuade an independent body that they should have it, it is very easy, because then you take your money out of this pot – whatever you have put in you can have back – and you can have your final salary scheme.

The alternative is very dangerous, Mr Speaker. They do not want to hear me, but the alternative, they need to understand, is very dangerous. If in four years' time the issue has not been resolved, they will walk out of this place, if they lose their seats, *without a penny*. This gives them a different sort of opportunity. (*Interjection by Hon. Ms M D Hassan Nahon*) If they, in the future, are able to persuade a body that they should have the final salary scheme, they can have it, but this creates a prejudice to them by not extending the right to them today. They do not seem to agree, Mr Speaker. We seem not to be able to agree on anything today; I suppose that is why we sit with different sides.

3415 This is not about us imposing anything. Nothing could be easier, I believe, for them to understand if they had an open mind about why this is happening, but they have come here with a prejudice. They have come convinced that we are here to do them *(Interjection by Ms M D Hassan Nahon)* something which is a damage, and this is far from a damage. This is an advantage that we are creating for them. They will have the ability – *(Interjection by Ms M D Hassan Nahon)* Mr Speaker, it is not usual to be heckled from a sedentary position. The hon. Lady needs to keep her wits about her. This is not going to do her out of a penny. She needs to keep her wits about her and listen to my explanations.

3420 Mr Speaker, the Hon. Mr Clinton said when he put his first motion that he did not know – **(Hon. D A Feetham: Disgusting.)** The Hon. Mr Feetham is saying from a sedentary position that what I am doing, in giving them the same opportunities that they decided should be the opportunities given to civil servants, is disgusting. Well, they might like to explain that to the new civil servants.

3425 Mr Speaker, the Hon. Mr Clinton said, when he put his first motion, that he did not know how much he was going to earn as a Member of Parliament. I believe him: neither did I – when I became a Member of Parliament I became a Member of Parliament because I am here to serve the people of Gibraltar at whatever cost, and that is what we are here to do. But suddenly, 3430 although he did not know how much he was going to earn, he wants to hang on for dear life to the final salary pension scheme. That, to me, is very surprising indeed, Mr Speaker. It is a complete contradiction in terms.

3435 He talks about people who are over 55 who have commuted. He might care to hear me tell him that the push for commutations for people who are beyond 55 has not come from anybody on these benches. He might be surprised to hear that the person who has had the greatest desire to receive a commutation from Credit Finance Company Ltd, which is the company that does the commutations – and if he does not know that, he needs to go back and read all the *Hansards*, where we explained how they work, Mr Speaker – was the Knight known as the greatest Gibraltarian of all time. *(Laughter)* He is the post-55-year-old who has wanted a 3440 commutation. It has been foisted on another one, who did not want it. *(Laughter)*

3445 So that point – No, I do not have any intention whatsoever of giving way at nine o'clock in the evening when I am giving my explanations, Mr Speaker. So that point is not a point that he has in order to make any valid reference against what the Government is doing. Actually, the Government is offering commutations to anybody who qualifies, and the request to qualify has been by a Member who was opposite.

3450 Mr Speaker, of course there will be a non-partisan decision as to what happens when the committee, or whatever is set up to look at salaries ... and when they make that decision the only prejudice that hon. Members opposite will have suffered is that they will have paid into a moneybox. And let me be clear again: if the decision is that they should have the final salary scheme, or any other scheme, they have their moneybox back and they are put in the position that they would have been in. The alternative is that they are then told three, five or six years down the line, 'You have now got to come up with six years of contributions if you want to have all your period of service considered.'

3455 So, Mr Speaker, frankly, when the hon. Gentleman got up and said all of the things that he has said, it was absolute *nonsense*, designed to try and play to what they must have believed this law was about rather than to the logic that we have presented to them is the reality of what this law is about. But let me be very clear: all that is going to happen is that they are going to be *offered* this product, and if they do not want it they do not take it. They do not have to pay anything in and they can take their chances and wait to see whether they persuade those who 3460 are coming to advise us independently, when they come, that they should have the other scheme. No problem. They do not have to pay into the moneybox, they can leave the moneybox empty; it is up to them. That is all that this does: it creates that opportunity. It deprives them of nothing, Mr Speaker. But look, if they want to raise this issue to the level of whether this is equality or not equality, rights to pensions, when they might all walk out of here without any



3465 pension – and, Mr Speaker, if they continue to perform as they are doing today I doubt whether any of them will be afforded the privilege by the people of Gibraltar of doing 90 months in this place – it is a matter entirely for them.

Finally, Mr Speaker, the issue of death in service is not one which I believe is affected by this. I believe there is an insurance policy that deals with death in service with everybody who is on a public emolument.

Mr Speaker, I therefore commend the Bill to the House.

**Mr Speaker:** I now put the question, which is that a Bill for an Act to amend the Parliament Act be read a second time. Those in favour? (**Several Members:** Aye) Those against? (**Several Members:** No.) Carried by Government majority.

**Clerk:** The Parliament (Amendment) Act 2016.

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**Parliament (Amendment) Bill 2016 –  
Committee Stage and Third Reading to be taken at this sitting**

**Hon. Chief Minister:** Mr Speaker, I beg to give notice that the Committee Stage and Third Reading of the Bill be taken today, if all hon. Members agree.

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

**Friendly Societies (Amendment) Bill 2016 –  
First Reading approved**

**Clerk:** A Bill for an Act to amend the Friendly Societies Act.  
The Hon. the Minister for Financial Services and Gaming.

**Minister for Financial Services and Gaming (Hon. A J Isola):** Mr Speaker, I have the honour to move that a Bill for an Act to amend the Friendly Societies Act be read a first time.

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

**Clerk:** The Friendly Societies (Amendment) Act 2016.

**Friendly Societies (Amendment) Bill 2016 –  
Second Reading approved**

**Minister for Financial Services and Gaming (Hon. A J Isola):** Mr Speaker, I have the honour to move that the Bill for the Friendly Societies (Amendment) Act 2016 be read a second time.

This Bill delivers yet another commitment from our election manifesto to continue to develop services for cancer patients and survivors as it would be of primary benefit to the Cancer Relief Society.

3500 We are currently working with the Society for the provision of hospice services by that charity at the Cancer Relief Centre. The Society views its current structure as unsuitable for the provision of such services and is keen to restructure as a private limited company and to transfer all its engagements to that company.

3505 This Bill amends the Friendly Societies Act so as to allow a society registered under the Act to transfer its engagements to a company or to convert into a company, subject to the fulfilment of certain conditions. In particular, the Registrar of Friendly Societies must confirm the transfer or conversion in order for it to take effect.

3510 The Registrar of Friendly Societies also has a residual power to give a direction requiring a registered society to transfer all or some of its engagements to a company, mainly in the interest of its members. The main conditions which the Society are required to fulfil prior to a transfer or conversion are set out in the new schedule 5, which sets out the information that a registered society needs to give votes to its members and the Registrar.

Finally, Mr Speaker, the new sections do not apply to any engagements relating to the carrying on of insurance business as defined in the Financial Services (Insurance Companies) Act.

3515 Mr Speaker, I commend the Bill to the House.

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

The Hon. Mr Edwin Reyes.

3520 **Hon. E J Reyes:** If I may, Mr Speaker, just very briefly to say that this side of the House will be supporting the Bill, for the obvious reasons that the Hon. Minister has just highlighted, and we can at least in the notes here, say that we will be unanimous in continuing to offer our undivided support to Cancer Relief Gibraltar.

3525 **Mr Speaker:** Any other hon. Members?

I now put the question, which is that a Bill for an Act to amend the Friendly Societies Act be read a second time.

Those in favour? (**Members:** Aye.) Those against. Carried.

3530 **Clerk:** The Friendly Societies (Amendment) Act 2016.

**Friendly Societies (Amendment) Bill 2016 –  
Committee Stage and Third Reading to be taken at this sitting**

3535 **Hon. A J Isola:** Mr Speaker, I beg to give notice that the Committee Stage and Third Reading of the Bill be taken today, if all hon. Members agree.

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

**Gibraltar Pilotage Bill 2016 –  
First Reading approved**

3540 **Clerk:** A Bill for an Act to make provision for and to consolidate, revise and re-enact the laws on pilotage and for connected purposes.

The Hon. the Minister for Financial Services and Gaming.

3545 **Minister for Financial Services and Gaming (Hon. A J Isola):** Mr Speaker, I have the honour to move that a Bill for an Act to make provision for and to consolidate, revise and re-enact the laws on pilotage and for connected purposes be read a first time.

**Mr Speaker:** I now put the question, which is that a Bill for an Act to make provision for and to consolidate, revise and re-enact the laws on pilotage and for connected purposes be read a first time.

3550 Those in favour? (**Members:** Aye.) Those against? Carried.

**Clerk:** The Gibraltar Pilotage Act 2016.

**Gibraltar Pilotage Bill 2016 –  
Second Reading approved**

3555 **Minister for Financial Services and Gaming (Hon. A J Isola):** Mr Speaker, I have the honour to move that the Bill for the Gibraltar Pilotage Act 2016 be read a second time.

This Bill is an important piece of legislation for the Gibraltar Port Authority that seeks to streamline the pilotage services in port waters.

3560 The Bill updates and modernises very old outdated and obsolete provisions for pilotage service in the existing legislation.

The Bill also introduces endorsement of pilots by way of authorisation or licence granted to them by the Captain of the Port and also provides for pilotage exemption certificates to a master or a chief mate of a ship if the Captain of the Port is satisfied that his skill, experience and local knowledge is sufficient for piloting any ship within our waters.

3565 Further, Mr Speaker, the Bill sets out required qualifications for people to be authorised or licensed for pilotage services. Basically, both authorised pilots and licensed pilots have to have the same qualifications but the authorisation and licensing procedures are slightly different.

3570 The Bill also introduces the Pilotage Committee, headed by the Deputy Captain of the Port, which Committee holds inquiries into the conduct of authorised pilots and licensed pilots and submits its findings and recommendations to the Captain of the Port. The Pilotage Committee is also tasked to oversee training of personnel engaged in the pilotage service and to investigate and advise the Captain of the Port on matters referred to it.

3575 The Bill allows the Minister to make regulation for various purposes, including determining additional qualifications for pilots, to fix the rate of payment of charges to be paid to authorised pilots and licensed, and to regulate the quantum of pilotage fees.

The Bill amends the Merchant Shipping Act by way of repealing part 9, sections 180 to 2003, and the end result is that a standalone piece of legislation dealing with all aspects of pilotage will be implemented for Gibraltar British Territorial Waters.

3580 Mr Speaker, I commend the Bill to the House.

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

3585 I now put the question, which is that a Bill for an Act to make provision for and to consolidate, revise and re-enact the laws on pilotage and for connected purposes be read a second time.

Those in favour? (**Members:** Aye.) Those against? Carried.

**Clerk:** The Gibraltar Pilotage Act 2016.

**Gibraltar Pilotage Bill 2016 –  
Committee Stage and Third Reading to be taken at this sitting**

3590 **Mr Speaker:** Do all hon. Members agree that the Committee Stage and Third Reading of the Bill be taken today? (**Members:** Aye.)

**COMMITTEE STAGE**

**Supplementary Appropriation (2014/2015) Bill 2015;  
Gibraltar Savings Bank (Amendment) Bill 2016;  
Public Finance (Borrowing Powers) Bill 2016;  
Parliament (Amendment) Bill 2016;  
Friendly Societies (Amendment) Bill 2016;  
Gibraltar Pilotage Bill 2016**

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

3595 **Chief Minister (Hon. F R Picardo):** Mr Speaker, I have the honour to move that the House should resolve itself into Committee to consider the following Bills clause by clause: the Supplementary Appropriation (2014/2015) Bill 2015; the Gibraltar Savings Bank (Amendment) Bill 2016; the Public Finance (Borrowing Powers) Bill 2016; the Parliament (Amendment) Bill 2016; the Friendly Societies (Amendment) Bill 2016; and the Gibraltar Pilotage Bill 2016.

*In Committee of the whole Parliament*

**Supplementary Appropriation (2014/2015) Bill 2015 –  
Clauses considered and approved**

3600 **Clerk:** A Bill for an Act to appropriate further sums of money to the service of the year ended the 31st day of March 2015.  
Clause 1.

3605 **Mr Chairman:** Notice has been given of an amendment to substitute '2016' for '2015'.

**Hon. D A Feetham:** Mr Speaker, we are happy to take any letters that have been lodged as effectively proposing the amendments, rather than the hon. Gentleman having to read them out.

3610 **Mr Chairman:** Yes, I am going to take it that all amendments have been circulated. Unless hon. Members of the Opposition tell me to the contrary, I will accept them and we will incorporate them on that basis into the necessary clause.

3615 **Chief Minister (Hon. F R Picardo):** This Bill will suffer no amendment other than the change of date.

**Mr Chairman:** Well, just that: 2016 instead of 2015. So, clause 1 as amended stands part of the Bill.

3620 **Clerk:** Clause 2.

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

**Clerk:** The schedule.

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

**Clerk:** The long title.

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**Mr Chairman:** The long title. Stands part of the Bill.

**Gibraltar Savings Bank (Amendment) Bill 2016 –  
Clauses considered and approved**

**Clerk:** A Bill for an Act to amend the Gibraltar Savings Bank Act.  
Clauses 1 and 2.

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

**Clerk:** Clause 3 as amended.

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**Mr Chairman:** Clause 3 as amended stands part of the Bill.  
The Hon. Mr Roy Clinton.

**Hon. R M Clinton:** Mr Speaker –

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**Mr Chairman:** You may be seated and address the Chairman.

**Hon. R M Clinton:** Chairman, okay.

Mr Chairman, before we go through every single clause I just have an observation, on reading the Savings Bank Act, that maybe the Members opposite may want to consider, and that is with the main amendment to the Savings Bank Act there is the provision where the Minister will be the Minister of the Savings Bank. But if they look at clause 8 – and they may or may not have considered this – where the guarantee is given by the Government for the money in the Savings Bank, there is a clause that says:

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if at any time or times the assets of the Savings Bank shall be insufficient to pay the lawful claims of every depositor, the Minister shall cause such deficiency to be met out of the Consolidated Fund, and the Financial Secretary shall certify such deficiency to the Minister without delay.

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Obviously, if he is not the Minister for Public Finance he may not have the power to do that. I wonder whether Members opposite will want to change the word ‘Minister’, or say ‘Minister for Public Finance’ or something else.

**Chief Minister (Hon. F R Picardo):** Mr Chairman, just dealing with that point, I do not think it is necessary to make the amendment, because I think the Minister, whether he is the Minister for Public Finance or whether he is the Minister for the Savings Bank or otherwise, does not have the ability to simply engage spending on his own. He engages spending as part of a Council of Ministers and all spending eventually ends up here, so it really is the Government that does the spending. The Minister is the instrument through which the Government is engaged. Therefore, I genuinely do not believe that that is a necessary change. The Minister for the Savings Bank would simply be the one that presents the case to the Council of Ministers for a Bill to be

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3670 published for an appropriation for that purpose, or in effect for the Appropriation Bill to deal  
with that issue in that particular year if there were that shortfall. On the basis of collective  
responsibility, that is the way that it would be handled, so I do not ... The hon. Member should  
not think that the Minister for Public Finance is simply the man who has the cheque book, and  
that if you move away from the Minister for Public Finance then the cheque book moves into  
somebody else's hands – or rather he has the responsibility but he does not have the cheque  
book. That is not the way it works. It works on the basis of the Council of Ministers having to  
engage that payment. Neither the Minister for Public Finance nor the Minister for the Savings  
3675 Bank on their own would engage that. That is why the language is 'would cause to' and the  
cause would be to cause the Government to do it through the instrument of the Council of  
Ministers publication of appropriation etc.

**Hon. R M Clinton:** Mr Chairman, thank you.

3680 I will obviously defer to the hon. Member's reading of the clause as it would stand when the  
Minister for the Savings Bank becomes the Minister responsible. Again, it was just an  
observation.

Thank you.

3685 **Clerk:** Clause 3 as amended.

**Mr Chairman:** Clause 3 as amended stands part of the Bill.

**Clerk:** The long title.

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

**Public Finance (Borrowing Powers) Bill 2016 –  
Clauses considered and approved**

**Clerk:** A Bill for an Act to amend the Public Finance (Borrowing Powers) Act 2008.  
Clauses 1 to 2.

3695 **Mr Chairman:** Stand part of the Bill.

**Clerk:** Clause 3 as amended.

3700 **Hon. R M Clinton:** Mr Chairman, I do not seem to have a copy of that. Not the Savings Bank  
one. This is the Borrowing Powers.

**Mr Chairman:** Do you have it?

3705 **Hon. D A Feetham:** Sorry, we have not seen the amendment.

**Mr Chairman:** You have not seen it?

**Hon. D A Feetham:** No, we have not seen it.

3710 **Hon. R M Clinton:** Mr Chairman, I was trying to find my copy of the Borrowing Powers Act. I  
seem to have misplaced ... Ah, found it.

The change in definition seems to be to aggregate public debt not net public debt. I just wonder why that would be the case and you would not want it in the net public debt.

3715 **Minister for Economic Development, Telecommunications & the GSB (Hon. J J Bossano):**  
Well, Mr Speaker, I think the hon. Member was informed that we had already in the pipeline considered a possible change as he was suggesting, but that it was not exactly the same as he was saying. In fact, we feel it is more appropriate that when the money is put into the sinking fund it does not simply affect the net debt but it affects both the net and the aggregate, because  
3720 there is no logic saying it affects one and not the other. By reducing the aggregate, automatically it reduces the net.

**Hon. R M Clinton:** Thank you, Mr Chairman, I understand his point.

3725 **Clerk:** Clause 3 as amended.

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

**Clerk:** The long title.

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

**Parliament (Amendment) Bill 2016 –  
Clauses considered and approved**

**Clerk:** A Bill for an Act to amend the Parliament Act.  
Clauses 1 to 3.

3735 **Mr Chairman:** This is the Parliament Act.

**Hon. D A Feetham:** This is the Parliament Act? Mr Chairman, are we on the Parliament Act?

**Mr Chairman:** Yes, we are.

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**Hon. D A Feetham:** Yes, Mr Chairman. Perhaps the hon. Gentleman can clarify this point that has occurred to me. I alluded to it during the course of my own speech, but it has crystallised in my mind as I was listening to the Hon. the Chief Minister.

3745 Can he explain what is the difference between somebody who becomes an elected Member and therefore he takes the view that should not be subject to the final salary pension scheme, just as civil servants are not subject to the final salary pension scheme if they joined after 2011, and a situation where someone, a Member of this House – let's put it neutrally; it does not have to be a Member of the Government, although I think that it does affect Members of his Government – has cashed in their pension because they have had the entirety of their pension  
3750 paid, commuted, and therefore, as I understand it ... I may be wrong, but as I understand it the time for qualification for a further pension begins to run again, so therefore they have got to serve two terms before they qualify for a pension again. Surely they are in exactly the same position as the new Members of Parliament who are effectively having to qualify, and in relation to that aspect of people within the Government they should also be subject to the contributory  
3755 not the final pension scheme, Mr Speaker.

**Minister for Economic Development, Telecommunications & the GSB (Hon. J J Bossano):** Mr Speaker, he is wrong in the interpretation. What happens is that the maximum that a Member can accumulate is 20 years and the threshold is eight. So anybody who has got a day less than eight gets nothing – as was the case with the Civil Service, except that in the case of the Civil Service the minimum was 10 – and anybody who does more than 20 – (**Mr Chairman:** Twenty eight.) The maximum is 28 years?

**Mr Chairman:** Twenty eight years of reckonable service.

**Hon. J J Bossano:** Well, 28 years, and anybody who has more than 28, even if he comes back, does not start with a new one. Otherwise, I should now be collecting my third pension, given that I am in the 44th year. (*Interjection by Hon. D A Feetham and laughter*)

What happens is that a Member who has got a pension ... For example, when this issue was first raised ... When I left the office of Government in 1996 I already had 24 years' service and I was 57. Nobody at that time had suggested that you could actually collect your pension and come back. Nobody had suggested it before 1996, or since 1996 until 2011 when the GSD lost Government. The then leader of the GSD raised the issue of being able to collect it and then come back and count the years after, which in fact he did and which I was told applied to me as well, although I had not asked for it and I found it very odd that if it applied to me then they owed me back money going back to 1996, but I did not make a claim.

So what happens is that the accumulated years get reconsidered and revalued in the same way that a civil servant who has had a break in service ... before, the break in service would have meant that he would have to start from scratch again. That was changed by the GSD, and I think rightly so, and there were people who had more years than somebody else but got a smaller pension because there was a gap. In some cases the gap was that they had been a week out of the service. They had finished in one week and had come back one week later, and although before that week and after that week together they had many more years, they were getting a smaller pension and were entitled to a smaller pension. The Government allowed the Civil Service Pension Scheme, by amending the Pensions Act, to provide for people to be able to, if there was service before a date and after a date, to put the two periods together in order to maximise what they were entitled to.

That is what happens when there is a situation where somebody has left Parliament and come back later. The same provisions were applied to the parliamentary pension, and when somebody comes back after an election, whatever they maybe have being collected, the next time they leave the Parliament, if their entitlement as a result of doing more years is higher than the one they got before, they are entitled to the difference.

In my case, obviously there is no way I can increase the years because I have already got too many. (*Laughter*)

**Hon. D A Feetham:** Yes, Mr Speaker, but of course I understand it in his case because he has reached the 28 years, but you could conceivably ... I do not know what the personal circumstances of Members opposite, but you could have a situation where there are Members of the Government who have commuted their pensions. It is legislation that they introduced, that applies to parliamentarians, that they could commute and then the clock starts all over again and they are in exactly the same position as effectively people who have got elected to Parliament. For pension purposes that must be true, that must be the reality, because the clock starts ticking again and they are not entitled to anything unless they serve eight years. That is the ...

**Hon. J J Bossano:** Mr Chairman, the explanation I have given the hon. Member is, for example, when this issue was raised by the former leader of the GSD for the first time since I joined the House, I thought it was the wrong interpretation. It went to the Principal Auditor and



3810 the Principal Auditor said he was right and that I was wrong, and then what happened was that  
he commuted 25% of his pension but he was able to continue clocking up service when he got  
re-elected into the Opposition. That is what happened, and it happened on an issue where the  
initiator of that policy was the GSD, not us.

**Mr Chairman:** May I remind hon. Members that a Bill came to Parliament (**Hon. J J Bossano:**  
3815 Yes.) in February last year to give effect to 100% commutation.

**Hon. J J Bossano:** I know, but the point about the continuing service is relevant whether it is  
25% ... Look, the 100% commutation is the maximum that you can take. It is not that everybody  
is required to take it. Within the Civil Service, in fact, the average take-up is 45%. Most people do  
3820 not take the 100%.

So what I am telling the Member is that it is not that if you take the commutation and if, for  
example, he were to find that there was evidence through opinion polls that the GSD would  
stand a better chance of being elected if its former leader came back, then the former leader  
could come back, stand for election and get elected, but he would not then start counting a new  
3825 pension from zero and have to do eight years minimum. Every month after he came back would  
mean that what he got previously would be recalculated at the end of the second term.

**Chief Minister (Hon. F R Picardo):** But the amounts that he had taken would be deducted.

3830 **Hon. J J Bossano:** But the amounts that he has already had ... He gets paid the difference. He  
does not get a pension every eight years – that is not what happens.

**Hon. R M Clinton:** Mr Chairman, would it not be equitable, where Members have either  
commuted their pensions or come back to the House, that they should be made to join the new  
3835 scheme and not continue in the old scheme?

**Hon. Chief Minister:** Well, Mr Chairman, as the hon. Gentleman is saying, when they have  
commuted 100% of their pensions, I assume, not if they have taken their gratuity of 25%, for  
example. That is not an issue which is current, in the sense that, as far as I understand it,  
3840 certainly on this side of the House that situation has not arisen. It may have arisen on the other  
side of the House – it may have arisen in relation to somebody who is no longer there or to  
somebody who is there – but that is an issue that the Independent Commission can look at, and I  
am very happy that they should look at it and make a determination.

It is not urgent, in the sense that they have gone already and if there is anybody who is going  
3845 to accrue in that way in the future so be it, but it is not as urgent as enabling them the  
opportunity of being able to contribute to the new scheme in the event that they wish to, to  
ensure that there is no period for which they are not covered.

It is something that we can certainly look at and we can look at what opinions have already  
been given by the Principal Auditor in that context.

3850 **Hon. R M Clinton:** Mr Chairman, I am grateful for that contribution.

Given that he is extolling the virtues of the new scheme, I wonder if it is possible to give any  
indication to the Members on this side of the House what that scheme would be, because it  
seems to be at the complete discretion of the Chief Secretary as to what type of scheme that  
3855 would be.

**Hon. Chief Minister:** Well, Mr Chairman, I think it is the scheme that is offered to civil  
servants which is the scheme that would be offered to them. Now, which of those ... I think  
there is an option of two. This is the Committee Stage: we are looking at the detail of the words  
3860 on the page. I am quite happy to facilitate a meeting with the Chief Secretary so that they can

understand and deal with him on the subject of which scheme they consider to be the most advantageous and go on to most advantageous, to the superannuation scheme and others, but this is about the words on the page and those say they will be offered a scheme.

3865 **Hon. R M Clinton:** Mr Chairman, my experience is that when you talk about pension schemes you make reference to whether they are contributory or non-contributory or a combination. This amendment to the Bill makes no reference to what type of scheme it is.

3870 **Hon. Chief Minister:** I am sorry, Mr Chairman, I entirely disagree. The section is absolutely clear, and if he cares to read it, it says:

89B. A person who, but for the operation of section 89A would be entitled to a pension under this Part shall be offered, by the Chief Secretary an opportunity to join such pension scheme as may be available to officers in the public service.

Those are the contributory schemes that are now available, there are no other schemes available, and they are available to members of the Civil Service and also not to members of the Civil Service – that is why it says *public* service. I think even members of the Civil Service or public service have an option of what scheme to join, and they should be given that option too.

3875 **Hon. D A Feetham:** Mr Chairman, I want to also make it absolutely crystal clear that we do not disagree with the principle, even though I have to say that I would have preferred the matter to have been formally put through the Select Committee and the Select Committee would have recommended ... but it is the date. We fundamentally disagree with the situation where  
3880 effectively what they are doing is, they are affecting the rights of five Members of Parliament retrospectively, all on this side of the House. If this had said 31st December we would have voted in favour of it, but not in the circumstances that it affects just simply five Members on this side of the House retrospectively, as it does.

3885 **Hon. Chief Minister:** Well, Mr Chairman, this is the Committee Stage and it is not for speeches on rights and how people would have voted or not voted in the Second Reading.

The fact is it gives the date it gives because that is, I think, the date of the dissolution of Parliament. That is why that date has been fixed, and he might be surprised as to how many Members on his side it might affect, given his interpretation as to commutations and what effect  
3890 that should be.

But this is about the stage where we are looking at the detail of the words that are used in the legislation. I think his comment is entirely out of place in the Committee Stage and should not have been allowed, frankly.

3895 **Clerk:** Clauses 1 to 3.

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

**Clerk:** The long title.

3900 **Mr Chairman:** Stands part of the Bill.

**Friendly Societies (Amendment) Bill 2016 –  
Clauses considered and approved**

**Clerk:** A Bill for an Act to amend the Friendly Societies Act.

Clauses 1 and 2.

3905 **Mr Chairman:** Stand part of the Bill.

**Clerk:** The long title.

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

**Gibraltar Pilotage Bill 2016 –  
Clauses considered and approved**

3910 **Clerk:** A Bill for an Act to make provision for and to consolidate, revise and re-enact the laws on pilotage and for connected purposes.  
Clauses 1 to 33.

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

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**Clerk:** The long title.

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

**BILLS FOR THIRD READING**

**Supplementary Appropriation (2014/2015) Bill 2015;  
Gibraltar Savings Bank (Amendment) Bill 2016;  
Public Finance (Borrowing Powers) Bill 2016;  
Parliament (Amendment) Bill 2016;  
Friendly Societies (Amendment) Bill 2016;  
Gibraltar Pilotage Bill 2016 –  
Third Reading approved: Bills passed**

3920 **Clerk:** The Hon. the Chief Minister.

**Chief Minister (Hon. F R Picardo):** Mr Speaker, I have the honour to report that the Supplementary Appropriation (2014/2015) Bill 2015 as amended, the Gibraltar Savings Bank (Amendment) Bill 2016, the Public Finance (Borrowing Powers) Bill 2016, the Parliament (Amendment) Bill 2016, the Friendly Societies (Amendment) Bill 2016 and the Gibraltar Pilotage Bill 2016 have been considered in Committee and agreed to with amendments, and I now move that they be read a third time and passed.

3930 **Mr Speaker:** I now put the question, which is that the Supplementary Appropriation (2014/2015) Bill 2015, the Gibraltar Savings Bank (Amendment) Bill 2016, the Public Finance (Borrowing Powers) Bill 2016, the Parliament (Amendment) Bill 2016, the Friendly Societies (Amendment) Bill 2016 and the Gibraltar Pilotage Bill 2016 be read a third time and passed.

Those in favour of the Supplementary Appropriation (2014/2015) Bill 2015? (**Several Members:** Aye.) Those against? (**Several Members:** No.) Carried by Government Majority.

3935 Those in favour of the Gibraltar Savings Bank (Amendment) Bill 2016? (**Several Members:** Aye.) Those against? Carried.

Those in favour of the Public Finance (Borrowing Powers) Bill 2016? (**Several Members:** Aye.) Those against? (**Several Members:** No.) Carried by Government majority.

3940 Those in favour of the Parliament (Amendment) Bill 2016? (**Several Members:** Aye.) Those against? (**Several Members:** No.) Carried by Government majority.

Those in favour of the Friendly Societies (Amendment) Bill 2016? (**Several Members:** Aye.) Those against? Carried.

Those in favour of the Gibraltar Pilotage Bill 2016? (**Several Members:** Aye.) Those against? Carried.

#### PRIVATE MEMBER'S MOTION

##### Review of Members' salaries and pensions etc. – Motion not carried

3945 **Clerk:** Private Member's Motion. The Hon. R M Clinton.

**Hon. R M Clinton:** Mr Speaker, I have the honour to move the motion standing in my name, which reads as follows:

*This House believes that the salaries, pensions and other benefits enjoyed by Members of Parliament should be determined by a body independent of Parliament.*

3950 We seem to have been superseded by events, but nevertheless I will carry on my prepared speech. (*Laughter*) I do carry on, do I?

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

It's your penance for taking away his pension rights! (*Laughter*)

3955 **Hon. R M Clinton:** Mr Speaker, I bring this motion in the same spirit as that of my last motion in January, in that I am looking to Parliament as a whole to ensure best practice and transparency in governance of MPs' pay and conditions. This is not and should not be considered a partisan issue.

3960 First of all, I wish to record my thanks to the Chief Minister and the Clerk to the House in so rapidly ensuring that the parliamentary website has been updated to include full details of MPs' allowances and method of calculation going back 20 years.

3965 Mr Speaker, I am also grateful to you for having directed me to review the report presented to Parliament in January 2013 by the Commission on Democratic and Political Reform, which in turn has led me to review the minutes of *Hansard* of 4th June 2013, during which the Select Committee was formed.

3970 I do not intend to dwell upon the merits of my motion – they should be self-evident – but perhaps illustrate the current practice in the United Kingdom in support of my motion. In the United Kingdom the Independent Parliamentary Standards Authority (IPSA) was created by Parliament in the wake of the MPs' expenses scandal. IPSA was given the remit and powers to introduce independent regulation over MPs' business costs and expenses, and subsequently pay and conditions and pensions. On their website they state:

Our approach and rules are a clean break from the old system of self regulation by MPs and the House of Commons. The new rules are fair to MPs and the public purse, workable and, crucially, transparent – anyone can go online and see what their MP has claimed for and what they are paid.

IPSA is independent and in everything we do, we focus on our main duty: to serve the interests of the public.

The Constitutional Reform and Governance Act 2010 in the UK provided for IPSA to be given responsibility for determining MPs' pay and pensions: pay in May 2011, and pensions in October 2011.

3975 The IPSA issued their final report on MPs' pay in July 2015. The following two quotes are pertinent. I quote:

No-one can be in any doubt that consideration of MPs' pay is a toxic issue.

– as we have seen today –

A thousand and one reasons can be advanced for putting it off. There is never a right time to do anything. But putting it off for decades led ultimately to disaster in the form of the expenses scandal of 2009. What we are putting in place will settle pay for a generation.

Also, they said:

MPs

– without patting ourselves on the back too much –

are an indispensable part of our parliamentary democracy. Our duty is to provide a package of remuneration which, while still modest by professional standards, does not deter people from entering political life, nor confine it to the independently wealthy.

– or, I should add, lawyers (*Laughter*) –

This is what our decisions are designed to achieve.

**Hon. D A Feetham:** [Inaudible].

3980 **Hon. R M Clinton:** Sorry, that was my addition, Mr Speaker! (*Interjection by Hon. D A Feetham and laughter*)

IPSA's Chair, Sir Ian Kennedy, said:

Parliament gave IPSA the power to deal with the vexed issue of MPs' pay independent of Parliament and Government. Pay has been an issue which has been an issue which has been ducked for decades with independent reports and recommendations from experts ignored. An MP's salary is supplemented by an opaque and discredited system of allowances.

3985 Mr Speaker, in reading *Hansard* from 4th June 2013, during which the report of the Commission was discussed extensively, I note that the Chief Minister in line 530 onwards suggests the Select Committee appoint independent assessors to consider MPs' salaries and pensions. I gather we have not yet had the report of the Select Committee created almost three years ago in June 2013, and that the Government has now indeed reconstituted that Select Committee today to continue its work in considering and advising on the recommendations of the Commission on Democratic and Political Reform.

3990 I believe this House should make the work of the Select Committee easier by agreeing to one fundamental point, that being that the pay of and any changes to salaries, pensions and other benefits enjoyed by MPs should be determined by an independent body similar to the IPSA and not by Members of this House, in what could be perceived by the general public as an obvious conflict of interest.

3995 Mr Speaker, with your leave, I commend my motion to the House. (*Banging on desks*)

**Mr Speaker:** I now put the question in the terms of the motion moved by the Hon. Mr Roy Clinton.

4000 **Chief Minister (Hon. F R Picardo):** Mr Speaker, rising to reply on behalf of the Government, together with other Members who will speak, the hon. Gentleman will be disappointed to know that the motion he brings today will not enjoy the support of the Government benches. The principle does enjoy support, Mr Speaker. The principle enjoys support and will be something that we see through.

4005 The hon. Gentleman said that having to hear his speech despite it being overtaken by events was a penance. Well, Mr Speaker, it is the last time I try and do him a favour in ensuring that he has got a pension from the first moment he has been elected, if I am supposedly going to be made to suffer a penance as a result of it.

4010 The hon. Gentleman has read what he says is the best practice in the United Kingdom in support of his motion. Well, I do not think he has read it in support of his motion, and I think that he should not pretend that this proposal is his doing, by suggesting that he is reading something in favour of his proposal. This is the doing of the Commission that was constituted by my Government to recommend reform, Mr Speaker, and it is in the Select Committee that we have now created that we will be considering exactly this issue and, certainly with our support, bringing inter alia other proposals to this Parliament for this exact issue, as I have indicated – to deal with salaries and pensions etc. Because, Mr Speaker, we fully agree it is an obvious conflict of interest for this House to be determining salaries, and to do so would create an invidious conflict – (*Interjection*) And pensions, Mr Speaker, especially when people are trying to take advantage and avail themselves of pensions that they do not have and pretending that they have them.

4020 For that reason we did not support the former GSD administration when they brought the issue of salaries to this House, Mr Speaker. The Hon. Mr Bossano is going to remind us of that in a moment and take us in detail, no doubt, through the discussion at the time, but the current salaries are the salaries that have been fixed for the first time in the history of this Parliament by this Parliament. Previously, the salaries of this Parliament were fixed by independent commissions and advice from outside – until the GSD took office and they decided that, even with the votes of Members opposite against, they would fix for themselves new and higher salaries. So, given that he has today also disavowed that particular practice of the GSD, he will find that we are of the same mind but we were of the same mind some time ago. We sent these recommendations to a Select Committee – in fact, on the advice of the former Chief Minister, who suggested that we should send all of these to the Select Committee – and we will continue to do that work in the Select Committee and come back with this one from the Select Committee, but not otherwise, Mr Speaker.

4035 I do not think I need to deal with any other point that the hon. Member has raised, other than to say that, for those reasons, we will not be supporting his motion.

**Mr Speaker:** Did I hear that the Hon. Mr Joe Bossano is going to contribute to the debate?

4040 **Minister for Economic Development, Telecommunications & the GSB (Hon. J J Bossano):** Mr Speaker, I am glad to see that the new GSD has abandoned the position of the old GSD, but I think it is important for them to know just how awful the position of the old GSD was.

4045 When the salary structure that exists now was introduced, it was introduced by the GSD by bringing a motion to the House about which there had been no prior consultation with anybody. They decided what it should be and they brought the motion here in 1998. They decided what the salary should be and they decided what it should be in 1999. And they decided that they were going to change the structure that existed by giving themselves in Government a bigger pay rise than they would give the Opposition. That is what they decided.

4050 **A Member:** And the Speaker.

**Hon. Chief Minister:** And the Speaker.

**Hon. J J Bossano:** And the Speaker, yes, that is right.

**Hon. Chief Minister:** With unilateral legislation. (*Interjection*)

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**Hon. J J Bossano:** The point that I made when we opposed what they were doing ... because in fact on the previous occasion that there had been a review of the pay of Members of Parliament, or Members of the House of Assembly as it then was ... what the AACR Government had done, under Sir Joshua Hassan as Chief Minister, was that Sir Joshua actually consulted both Peter Isola, who held the majority of the Opposition seats, and me as the leader of the GSLP with one seat. Not only did he consult the majority Opposition, he came to get a consensus view as to how we should approach a review of the salary, because it was following the introduction of parity in the public sector, and therefore the effect of that very big increase after a long period when there had been no pay rises meant that there was a disparity between what people got paid in this House and what people were being paid outside the House. Sir Joshua felt – and Peter Isola felt, and I felt – that it was a difficult thing that we should be taking decisions putting our own pay up.

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Therefore it was agreed by the three of us that we should approach the UK Parliament and find out how they did it. They sent a person they said was an expert in this area, (**A Member:** David Pring.) David Pring, and the Pring report was what suggested what our relativities should be. That was what operated until the GSD was in Government, when the GSD decided unilaterally to do it on the basis of what they thought was good for them, what they thought was good for us on the opposite side and what they thought was good for the guy in the Chair.

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When I suggested that it might be better to bring somebody from the UK so that nobody could accuse us of paying ourselves more money I was accused of wanting to go to London to be told by Bwana what was good for us. That was the wording of the greatest ever Gibraltarian. (*Laughter*) I pointed out that I was not particularly well known for going to Bwana to be told what to do, but certainly he was accusing not just me – he was accusing Peter Isola and Sir Joshua Hassan of wanting to go to Bwana to tell us what we should be paid.

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As well as rubbishing that, he said that the idea that people should enter politics because it was a vocation, because it was a matter of wanting to serve the people, was a romantic nonsense (*Laughter*) and that this was a job like any other. (**Hon. Chief Minister:** Shame!) (**A Member:** Oh, brilliant!) (*Laughter*) He said, 'We do not subscribe to this romantic notion that politics is a vocation and that one should do it for nothing.' Well, look, we were not doing it for nothing. I accept that when I joined I was doing it for practically nothing, because I had three kids, one on the way, and a pay of £500 a year in 1972.

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**Mr Speaker:** £350 – you were a Member of the Opposition.

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**Hon. J J Bossano:** Oh, yes, £500 in the Government. Yes, £350, right. And of course when my good friend Mr Speaker left his post in the education he did it to take a pay cut.

**Mr Speaker:** £700 a year ... [*Inaudible*]

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**Hon. J J Bossano:** So the reality of it is that there has been a tradition in this Parliament of people joining because they want to contribute to the welfare of our community, a view that in 1997 clearly the GSD did not share, and if there is one good thing about the change it is that narrow view of what it is to be a Member of Parliament, which is a career just like each other ... I pointed out to the greatest ever Gibraltarian – he was not that at that time, but I pointed out to him that he could hardly say that it was the same as anybody else entering into any job and having a career. Because, look, people who enter at the bottom do not all get to the top, and in any event there are quite a number of people who enter after they have ended their career. There are a number of people on the opposite side who have finished one career and are

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4105 coming here after completing one career. And I, in fact, at that point in that debate in 1998, said  
that this was a good thing because people had come from working in the private sector or  
working in the public sector and they brought to Parliament years of experience in their  
profession, which would be a useful input when we were taking policy decisions and debating  
legislation. It is not like entering the Civil Service as an AA and finishing up as Head of the Civil  
Service. Therefore, to say 'Because this is a career, if the Head of the Civil Service earns  
4110 £100,000, then I as Chief Minister must earn £75,000' ... Well, look, but you have had a career in  
the private sector as a lawyer earning a lot of money, and the person who got to be the Head of  
the Civil Service had to work his way up.

I was a bit surprised about this motion – and I do not know whether it was connected with  
the Bill that dealt with the pensions or not, or what prompted it – because my first reaction to  
4115 the motion was to say, 'Well, what is it that the Hon. Member Mr Clinton is raising? An issue  
because he thinks the pay is not enough, or because the pay is too much?' Normally, I would not  
say we need to review what we are getting unless I thought it was too much or too little. I would  
not expect to say we need a review to tell us that it is just right.

4120 Given that what we are getting, in my view, is too much ... was something that the GSD  
introduced, then ... and I have heard nothing from their side that they think they are getting too  
much, and in fact the thought of losing final salary pension is seen as an attack on their rights ...  
It is a right that they only enjoy after eight years, not after two months, so the right does not  
exist at this point in time, but –

4125 **Hon. D A Feetham:** It exists now.

**Hon. Chief Minister:** Nonsense.

**Hon. D A Feetham:** Yes it does.

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**Hon. Chief Minister:** And what happens if they do not get re-elected? They get nothing.

**Hon. J J Bossano:** They get nothing. *(Interjection)*

4135 **Hon. Chief Minister:** Because it is true. That is why it is relevant.

**Hon. J J Bossano:** I suggested that there should be somebody externally because that is what  
we had done the last time. And the last time that we had done it we had not done it on my  
suggestion – it was the suggestion of Sir Joshua, and Peter Isola agreed with it and I agreed with  
4140 it, and we all felt that given that we all entered politics with an idea that this was not a career  
and that ... And the Chief Minister who was in office when this dramatic change in values took  
place argued that that was because we were all part time before, but now that we were not part  
time it was different. He said that when it suited him in 1997. When we pointed out that some  
of his Ministers were still happily running their businesses, his answer was that there was no  
4145 obligation to be full time on public duties when you were a Minister – and that is right, there is  
no obligation. There is nothing in our Constitution, in Parliament or in anything else that says  
that Ministers should not have private interests. It is the GSLP who made it a condition in 1988  
that everybody who stood as a candidate stood as a candidate on the basis that we were  
fighting to get into Government and that if we got into Government it should be a full-time job.  
4150 In fact, Mr Speaker was the only Minister in the AACR who did that by giving up a job in the Civil  
Service as a school teacher and not taking a part-time job in the private sector, and was the only  
full-timer that there was in the Government.

That approach means that I think, when we are looking at a motion saying we need  
somebody to look at the benefits, we need to look at it from the philosophical point that it is  
4155 right that the money should be sufficient, and indeed one of the things that I argued was that it



had to be sufficient so that a person would not need to have a second job, even in Opposition. When I became the Leader of the Opposition in 1996 I did not look for a second job. I spent 16 years in Opposition, having accumulated enough years that if I had chosen to take my pension I probably would have been better off. But the idea that you are in Opposition... Well, look, I do not know to what extent our society has changed, but I can tell Members opposite that, from a socialist perspective, if you were a socialist Member of the Opposition and you did not have a job that you kept, you did not have an easy ride in trying to find another job. And certainly when I came back in 1972 I found it extremely difficult to persuade anybody to employ me. I came back knowing that that was a risk I was taking, and I came back with a very young family. Therefore, those values ... I think, whatever we may do or may not do, whether we contribute a lot or we contribute a little, it depends on our ability and on how many mistakes we make while we are here. But what we should encourage is that the people who come to this place and offer themselves should be doing it for the right reasons – and the right reason is not so that they get parachuted to the top jobs in our society on the basis that it is a career but it is a career that you can reach overnight through the ballot box and not through working your way up.

I think there are Members on both sides of the House who have had that view for many years, and I am glad that it can now be the view unanimously of this House and not, as it was under the previous administration, a view only held by the Opposition and decried and ridiculed by the GSD administration of those years. *(Banging on desks)*

**Hon. D A Feetham:** Mr Speaker, very briefly, because it is very late and no doubt hon. Members want to get on to other things.

It is slightly incongruous that the hon. Gentleman agrees with the principle behind the motion and yet they are voting against the motion. Not only are they voting against the motion but also they have come to this House amending the Parliament Act in order to unilaterally change the pension rights of five Members of the Opposition without sitting down, without that collegiate approach which he rightly emphasised in the 1980s between himself, Peter Isola and Sir Joshua Hassan.

That is precisely the type of approach that I would have expected from the Hon. the Chief Minister in relation to the Parliament Act. That is precisely the type of approach that I would have expected, bearing in mind that there is a Select Committee, that he was going to reconstitute a Select Committee, and that this particular issue was going to be considered by a Select Committee. He has chosen not to do so, unfortunately, and we are where we are.

It does not serve to increase trust between the Government and the Opposition in relation to other areas of business where the Government and the Opposition ought to be working together, because going it alone in these circumstances really does not bode well for mutual trust and confidence.

I only end by saying this, Mr Speaker. The hon. Gentleman has always attempted to give Members of this House a history lesson, but of course it may be right – it is right – that the GSD Government in 1998-99 changed the salaries and increased the salaries for everybody, for the Government and for the Opposition, but he must also recognise ... And I recognise everything that he has said. For me, being in politics is not a career, it is a vocation. I have always wanted to be involved in politics, to make a contribution to my community, to help keep my community safe and secure. That is what I am doing. But when he made Government full time, quite rightly, in 1988, he did not actually increase the salaries in 1988. *(Interjection)* No, indeed. So what happened then was that you had Government Ministers on a full-time basis for a part-time salary, because the salary was pegged on the basis that Government Ministers were on a part-time basis, and actually –

**Mr Speaker:** In fact, if I may –

**Hon. D A Feetham:** Yes, of course.

4210 **Mr Speaker:** There was a benchmark created and the benchmark was that a Minister would get half the salary of the Financial Secretary, and then the structure was developed on that basis.

**Hon. D A Feetham:** Yes, Mr Speaker, and I –

4215 **Hon. J J Bossano:** Above the minimum wage.

**Hon. D A Feetham:** Mr Speaker, because I come from a family with roots on that side, as he delights in reminding me at every single opportunity – reminds me how far I have fallen, the fallen angel who came from the GSLP and fell to the GSD, the political equivalent of Lucifer, from the dark side, the darkest, darkest, pitch black side of the political spectrum – I can tell the hon. Gentleman that of course I remember. (*Interjection*) (**A Member:** Hear, hear.) Yes, Mr Speaker, exactly! (*Banging on desks*) For the first time this evening applause, Mr Speaker, for the Leader of the Opposition from the Government benches!

4225 Of course, because I come from a family with roots on the other side he knows as well as I do that there were Ministers on his side, on the then GSLP Government side, who decried the fact that he was – how can I put this in diplomatic terms ... perhaps there is no way I can do so at this time of the night, my brain is not fully engaged – that he was rather tight with money and that he did not want to correct what was an obvious injustice that Ministers on his side, in his Government, were working full time for a part-time salary. Effectively, what the GSD did was correct that anomalous position, and the GSD what it did was it basically paid a full-time salary for a full-time job, which in the end also benefitted Members of the Opposition.

4230 I just thought that I might maybe complete the history lesson with my own memory, Mr Speaker, coming as I do from his side, as he delights in reminding me.

**Minister for Sports, Culture, Heritage and Youth (Hon. S E Linares):** Mr Speaker, I would like to declare a few things about what has been said today, because we have been given history lessons by different parts, and I remember as well – because, like Mr Speaker, I was a schoolteacher – the elections of 2000, when I had three options. When you stand for election there are three options: (1) you either win and you become a Government; (2) you are not elected at all; or (3) you become a Member of the Opposition.

4240 I had already planned out what could happen, whichever scenario, and what happened was the worst scenario for me personally, which would be becoming a Member of the Opposition, because I had to leave my teaching profession to become a Member of this House. At the time, I was earning what a schoolteacher was earning with an A allowance, and my salaries were knocked down to £14,000. I did not have the opportunity of getting a job, because it was then the GSD Government that was there, and therefore I found it very, very difficult to have a wife, with my second child at the time and then a third one, at that salary. So yes, it is a vocation that I had at the time, and I remember that when the salaries were increased by the GSD they were increased substantially for Ministers, and it is what we are here now ... in that we are earning the same, but for the Members of the Opposition it was not that substantial, the amount of money that we were getting.

4250 **A Member:** There was an increase.

**Hon. S E Linares:** There was an increase, yes, of course, and now what I am saying is that you are earning what, £39,000 or whatever. (**A Member:** Thirty four.) Thirty four, right – £34,000 or £35,000. I was earning £14,000. Therefore, I would like to state that I am convinced that the people who stand for election should be on a conviction, not a career like is happening in many places, in many parliaments where politicians become career politicians – they are not conviction politicians.

4260 I thought I would say that because I have been very quiet here, seeing how people have said about their families and all that. Well, I can tell you that my family suffered. We knew what we were getting into, but I am glad that I did. (**A Member:** Hear, hear.)  
Thank you. (*Banging on desks*)

4265 **Hon. L F Llamas:** It is very, very late. I will not go on for long and I am not going to bring out any saga stories of how many children we all have and the sacrifices we all make to become parliamentarians and serve our community. We are not disputing the fact that we come here on a point of conviction – we agree entirely with that principle.

4270 I think what we are trying to express is that we were sworn in on certain rules and certain legislation, and that is being changed retrospectively. That is the only point that we want to make (*Banging on desks*) and that is the only point that we want to raise, because for us that is the only point that we fear can – (*Interjection*) Well, I accept that, and I took that (*Interjection*) on board when I joined the GSD. Yes, I had the final salary scheme but I took that on board, that if I would only serve in Parliament for four years I would go back with nothing. All those things  
4275 are taken into consideration, yes.

**A Member:** [Inaudible]

4280 **Hon. L F Llamas:** Yes, but all those things were taken into consideration. What we did not take into consideration was the force with which things would be shoved down our throats without being given the opportunity of having sight of these issues.

**Hon. Chief Minister:** The only thing that is being shoved down your throat is your ability to contribute to a scheme that you can cash out of in four years ... [*Inaudible*]

4285 **Hon. L F Llamas:** Fine, I accept that, but obviously, if in four years' time (*Interjection*) I leave and I leave with a pot, well it is better than nothing. Fine, but perhaps it should have come as a two-sided opportunity (**Hon. D A Feetham:** Of course.) and we should have discussed it. (*Interjection by Hon. Chief Minister*)

4290 **Hon. L F Llamas:** I must actually say that he did look out for me.

**Mr Speaker:** Order, order. You are now speaking across the floor. I know it is very very late and we all want to go home.

4295 **Hon. L F Llamas:** No, but for him to say that he did not look out for us five ... I can personally say that he did. He told me 'It is a big risk' and he tried to force me not to join, and I have to appreciate that he was more concerned for me than I was. I leave it at that.

4300 **Hon. D A Feetham:** There is a silver lining to this cloud, which is that you are not going to be able to buy out any members of the Opposition... [*Inaudible*]

**Mr Speaker:** Does any other hon. Member wish to speak? Yes.

4305 **Minister for Financial Services and Gaming (Hon. A J Isola):** Mr Speaker, can I just ask a very quick question. The Members opposite refused to support a Bill to review the Constitution, which we were reminded constantly was modern, 10 years old – maybe not quite so modern now. Could I just understand from the mover of the Bill what it is that he believes needs to be reviewed in respect of the Members' of the Parliament remuneration package? That is all I  
4310 would like to understand. What is it that he believes requires to be reviewed by the independent body?

**Hon. T N Hammond:** If I may, (*Interjections*).

4315 **Mr Speaker:** The hon. Member should make a note of that point, and then, when he exercises his right to reply he can answer. Now there are other Members who may wish to contribute.

The Hon. Trevor Hammond.

4320 **Hon. T N Hammond:** If I may, Mr Speaker, I think we have actually drifted quite a way from the original motion. The motion is very straightforward. I will actually read it. It is whether 'this House believes that the Salaries, Pensions and other benefits enjoyed by Members of Parliament should be determined by a body independent of Parliament.'

4325 Nobody on this side of the House is suggesting the salaries should be higher, lower, different, the same. (*Interjection*) All we are suggesting is that they should be determined by a body other than this Parliament, (*Interjection*) and if that body should determine they should be lower then so be it, and if that body should determine that they should be higher, so be it. That is the point. It should not be determined by this Parliament. It should not be within the power of this Parliament to set its own salaries. (**Hon. Chief Minister:** We agree.) And you appear to agree; however, you will not vote for the motion, which seems an oxymoron.

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**A Member:** Agreed!

**Hon. Chief Minister:** ... [*Inaudible*] which is the mechanism we have already voted for in selecting the Select Committee.

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**Hon. D A Feetham:** Yes, and if you check that ... [*Inaudible*]

**Mr Speaker:** Does any other Member wish to speak?

4340 **Hon. Chief Minister:** Because it is urgent, because otherwise they would not start contributing. I will not tire of making the point.

**Mr Speaker:** I then call on the mover to reply. The Hon. Mr Roy Clinton.

4345 **Hon. R M Clinton:** Mr Speaker, it is late. Listening to the contributions, in fact from both sides of the House, I could not help but be reminded of the famous Monty Python sketch (*Laughter*) of the four Yorkshiremen, where they say, 'You were lucky' and 'You thought you had it good.' And unfortunately, Mr Speaker, I shudder as to how the general public – if anybody is viewing this – will react.

4350 I am grateful to the Hon. Joe Bossano, as ever, for having explained the background to the methodology in how salaries have been arrived at – about which, to be perfectly honest, I really had no idea.

4355 I think we agree on the basic principle, and this is perhaps where I am slightly disappointed that the Government cannot bring itself to vote in favour of a motion which should cause them no offence whatsoever. I think both sides of the House agree that it is perhaps not good form for us to sit here and decide amongst ourselves what we should or should not be paid.

4360 Going back to the Hon. Albert Isola's question, I can set his mind at rest that the way I wrote the motion ... I have no intention of suggesting that there should be a review, merely that the point of principle should be that we here should not determine it. It is as simple as that – nothing more, nothing less, as I said in my opening address. There is no malice – there is nothing in my motion which should cause offence (*Interjections*) to anyone in this House, including you, Mr Speaker. It is really a point of principle, and also to avoid these sorts of unseemly debates, which I do not think are appropriate in the Parliament in a modern age.

4365 And so, as I said in my opening address, I hoped it would have been a simple point of principle which we could all agree on, but if the Chief Minister feels that it has been superseded by the Select Committee ... I think it is complementary to the Select Committee, but of course there is nothing I can say that will persuade him otherwise. *(Interjection by Hon. Chief Minister)*

4370 **Hon. D A Feetham:** You have chosen to come to this Parliament unilaterally.

**Hon. Chief Minister:** You just don't understand what ... *[Inaudible] (Laughter)*

4375 **Hon. R M Clinton:** Mr Speaker, without wanting to castigate either my own leader or the Chief Minister, this is precisely the sort of debate that we should not be having, and this is precisely why I have brought this motion to the House.

If the Chief Minister feels he is unable to support it, so be it, but I take comfort in that the Hon. Joe Bossano at least agrees with the principles of my motion. *(Interjections)*

4380 **A Member:** We all agree with your principles.

**Hon. Ms M D Nahon Hassan:** So why don't you support it?

**Hon. R M Clinton:** Mr Speaker, in that case –

4385 **Hon. Chief Minister:** As I have explained, it is already happening in the Select Committee.

**Hon. Ms M D Nahon Hassan:** But you are passing a Bill.

4390 **Hon. Chief Minister:** We passed the Bill to give you ... *[Inaudible] (Interjections)*

**Mr Speaker:** The Hon. Mr Clinton, you can either carry on with your speech and, by speaking over and above them, do not allow them to make these comments; or else I suggest that, if the hon. Member has finished, he sits down and I will put the motion.

4395 **Hon. R M Clinton:** Mr Speaker, that is a tempting thought. *(Laughter)* Perhaps I should continue for the next hour or so as to the merits of bodies determining their own pay.

I think I have said enough. I have tried to make my point. I have obviously not been able to make inroads into the Chief Minister's mind. I leave it at that, and I will sit down. *(Laughter)*

4400 **Mr Speaker:** I now put the question in the terms of the motion proposed by the Hon. Mr Roy Clinton.

Those in favour? **(Several Members: Aye.)** Those against? **(Several Members: No.)** The motion is defeated by Government majority.

The Hon. the Chief Minister.

4405 **Hon. Chief Minister:** Mr Speaker, to leave people with no possibility for doubt, the Chief Minister agrees that we should not be setting our own salaries. That will be an issue dealt with in the Select Committee, and that is why we have voted down this motion.

#### ADJOURNMENT

4410 **Chief Minister (Hon. F R Picardo):** Now, Mr Speaker, I very happily move that the House should now adjourn *sine die*.

**Mr Speaker:** The House will now adjourn *sine die* – and I am not putting it to the vote!  
(Laughter)

*The House adjourned at 10.20 p.m.*