

# GIBRALTAR

## HOUSE OF ASSEMBLY



# HANSARD

**12<sup>th</sup> FEBRUARY, 2001**

(adj to 13<sup>th</sup>, 15<sup>th</sup>, 19<sup>th</sup> February,  
5<sup>th</sup> & 26<sup>th</sup> March 2001)

REPORT OF THE PROCEEDINGS OF THE HOUSE OF ASSEMBLY

The Fourth Meeting of the First Session of the Ninth House of Assembly held in the House of Assembly Chamber on Monday 12<sup>th</sup> February 2001, at 3.00 pm.

PRESENT:

Mr Speaker ..... (In the Chair)  
(The Hon Judge J E Alcantara CBE)

Government:

The Hon P R Caruana QC – Chief Minister  
The Hon K Azopardi – Minister for Trade, Industry and Telecommunications  
The Hon Dr B A Linares – Minister for Education, Training, Culture and Health  
The Hon J J Holliday – Minister for Tourism and Transport  
The Hon Lt-Col E M Britto OBE, ED – Minister for Public Services, the Environment, Sport and Youth  
The Hon H A Corby – Minister for Employment and Consumer Affairs  
The Hon J J Netto – Minister for Housing  
The Hon Mrs Y Del Agua – Minister for Social Affairs  
The Hon R Rhoda QC – Attorney-General  
The Hon T J Bristow – Financial and Development Secretary

OPPOSITION:

The Hon J J Bossano – Leader of the Opposition  
The Hon Dr J J Garcia  
The Hon J L Baldachino  
The Hon Miss M I Montegriffo  
The Hon Dr R G Valarino  
The Hon J C Perez  
The Hon S E Linares

IN ATTENDANCE:

D J Reyes Esq, ED – Clerk of the House of Assembly

PRAYER

Mr Speaker recited the prayer.

CONFIRMATION OF MINUTES

The Minutes of the Meeting held on the 1<sup>st</sup> September 2000, having been circulated to all hon Members, were taken as read, approved and signed by Mr Speaker.

DOCUMENTS LAID

The Hon the Chief Minister laid on the Table the Ombudsman's – 1<sup>st</sup> Annual Report (April 1999 to December 2000).

Ordered to lie.

The Hon the Minister for Trade, Industry and Telecommunications laid on the Table the Financial Services Commission Annual Report and Accounts for the year ended 31<sup>st</sup> March 2000.

Ordered to lie.

The Hon the Financial and Development Secretary laid on the Table the following documents:

- (1) Statement of Consolidated Fund Reallocations approved by the Financial and Development Secretary (No. 1 of 2000/2001).

TUESDAY 13<sup>TH</sup> FEBRUARY 2001

The House resumed at 9.30 am.

- (2) Statement of Consolidated Fund Reallocations approved by the Financial and Development Secretary (Pay Settlement – 2000/2001).
- (3) Statement of Improvement and Development Fund Reallocations approved by the Financial and Development Secretary (No. 1 of 2000/2001).

Ordered to lie.

#### ANSWERS TO QUESTIONS

The House recessed at 5.30 pm.

The House resumed at 5.50 pm.

Answers to Questions continued.

The House recessed at 8.20 pm.

The House resumed at 8.35 pm.

Answers to Questions continued.

#### ADJOURNMENT

The Hon the Chief Minister moved the adjournment of the House to Tuesday 13<sup>th</sup> February 2001, at 9.30 am.

Question put. Agreed to.

The adjournment of the House was taken at 11.00 pm on Monday 12<sup>th</sup> February 2001.

PRESENT:

Mr Speaker ..... (In the Chair)  
(The Hon Judge J E Alcantara CBE)

GOVERNMENT:

The Hon P R Caruana QC – Chief Minister  
The Hon K Azopardi – Minister for Trade, Industry and Telecommunications  
The Hon Dr B A Linares – Minister for Education, Training, Culture and Health  
The Hon Lt-Col E M Britto OBE, ED – Minister for Public Services, the Environment, Sport and Youth  
The Hon H A Corby – Minister for Employment and Consumer Affairs  
The Hon J J Netto – Minister for Housing  
The Hon Mrs Y Del Agua – Minister for Social Affairs  
The Hon R Rhoda QC – Attorney-General

OPPOSITION:

The Hon J J Bossano – Leader of the Opposition  
The Hon Dr J J Garcia  
The Hon J L Baldachino  
The Hon Miss M I Montegriffo  
The Hon Dr R G Valarino  
The Hon J C Perez  
The Hon S E Linares

ABSENT:

The Hon J J Holliday – Minister for Tourism and Transport  
The Hon T J Bristow – Financial and Development Secretary

IN ATTENDANCE:

D J Reyes Esq, ED – Clerk of the House of Assembly

ANSWERS TO QUESTIONS continued.

The House recessed at 10.15 am.

The House resumed at 10.30 am.

Answers to Questions continued.

The House recessed at 12.55 pm.

The House resumed at 3.00 pm.

Answers to Questions continued.

The House recessed at 5.30 pm.

The House resumed at 5.45 pm.

Answers to Questions continued.

The House recessed at 8.00 pm.

The House resumed at 8.20 pm.

Answers to Questions continued.

ADJOURNMENT

The Hon the Chief Minister moved the adjournment of the House to Thursday 15<sup>th</sup> February 2001, at 9.30 am.

Question put. Agreed to.

The adjournment of the House was taken at 10.00 pm on Tuesday 13<sup>th</sup> February 2001.

**THURSDAY 15<sup>TH</sup> FEBRUARY 2001**

The House resumed at 9.35 am.

PRESENT:

Mr Speaker ..... (In the Chair)  
(The Hon Judge J E Alcantara CBE)

GOVERNMENT:

The Hon P R Caruana QC – Chief Minister  
The Hon K Azopardi - Minister for Trade, Industry and Telecommunications  
The Hon Dr B A Linares - Minister for Education, Training, Culture and Health  
The Hon J J Holliday - Minister for Tourism and Transport  
The Hon Lt-Col E M Britto OBE, ED - Minister for Public Services, the Environment, Sport and Youth  
The Hon H A Corby - Minister for Employment and Consumer Affairs  
The Hon J J Netto - Minister for Housing  
The Hon Mrs Y Del Agua - Minister for Social Affairs  
The Hon R Rhoda QC - Attorney-General

OPPOSITION:

The Hon J J Bossano - Leader of the Opposition  
The Hon Dr J J Garcia  
The Hon J L Baldachino

The Hon Miss M I Montegriffo  
The Hon Dr R G Valarino  
The Hon J C Perez  
The Hon S E Linares

ABSENT:

The Hon T J Bristow – Financial and Development Secretary

IN ATTENDANCE:

D J Reyes Esq, ED – Clerk of the House of Assembly

ANSWERS TO QUESTIONS continued.

The House recessed at 11.35 am.

The House resumed at 11.50 am.

Answers to Questions continued.

ADJOURNMENT

The Hon the Chief Minister moved the adjournment of the House to Monday 19<sup>th</sup> February, 2001, at 10.00 am.

Question put. Agreed to.

The adjournment of the House was taken at 1.45 pm on Thursday 15<sup>th</sup> February 2001.

MONDAY 19<sup>TH</sup> FEBRUARY 2001

The House resumed at 10.00 am.

PRESENT:

Mr Speaker ..... (In the Chair)  
(The Hon Judge J E Alcantara CBE)

GOVERNMENT:

The Hon P R Caruana QC – Chief Minister  
The Hon K Azopardi - Minister for Trade, Industry and Telecommunications  
The Hon Dr B A Linares - Minister for Education, Training, Culture and Health  
The Hon J J Holliday - Minister for Tourism and Transport  
The Hon Lt-Col E M Britto OBE, ED - Minister for Public Services, the Environment, Sport and Youth  
The Hon H A Corby - Minister for Employment and Consumer Affairs  
The Hon J J Netto - Minister for Housing  
The Hon Mrs Y Del Agua - Minister for Social Affairs  
The Hon T J Bristow – Financial and Development Secretary

OPPOSITION:

The Hon J J Bossano - Leader of the Opposition  
The Hon Dr J J Garcia  
The Hon J L Baldachino  
The Hon Miss M I Montegriffo  
The Hon Dr R G Valarino  
The Hon J C Perez  
The Hon S E Linares

ABSENT:

The Hon R Rhoda QC – Attorney General

IN ATTENDANCE:

D J Reyes Esq, ED – Clerk of the House of Assembly

**MONDAY 5<sup>TH</sup> MARCH 2001**

The House resumed at 10.05 am.

PRESENT:

Mr Speaker ..... (In the Chair)  
(The Hon Judge J E Alcantara CBE)

ANSWERS TO QUESTIONS continued

BILLS

FIRST AND SECOND READINGS

**THE DRUG TRAFFICKING OFFENCES ORDINANCE 1995  
(AMENDMENT) ORDINANCE 2001**

HON CHIEF MINISTER:

I have the honour to move that a Bill for an Ordinance to amend the Drug Trafficking Offences Ordinance 1995, be read a first time.

Question put. Agreed to.

ADJOURNMENT

The Hon the Chief Minister moved the adjournment of the House to Monday 5<sup>th</sup> March 2001, at 10.00 am.

Question put. Agreed to.

The adjournment of the House was taken at 12.30 pm on Monday 19<sup>th</sup> February 2001.

GOVERNMENT:

The Hon P R Caruana QC – Chief Minister  
The Hon K Azopardi - Minister for Trade, Industry and Telecommunications  
The Hon Dr B A Linares - Minister for Education, Training, Culture and Health  
The Hon J J Holliday - Minister for Tourism and Transport  
The Hon Lt-Col E M Britto OBE, ED - Minister for Public Services, the Environment, Sport and Youth  
The Hon H A Corby - Minister for Employment and Consumer Affairs  
The Hon J J Netto - Minister for Housing  
The Hon Mrs Y Del Agua - Minister for Social Affairs  
The Hon R Rhoda QC – Attorney-General  
The Hon T J Bristow – Financial and Development Secretary

OPPOSITION:

The Hon J J Bossano - Leader of the Opposition  
The Hon Dr J J Garcia  
The Hon J L Baldachino  
The Hon Miss M I Montegriffo  
The Hon Dr R G Valarino  
The Hon J C Perez  
The Hon S E Linares

IN ATTENDANCE:

D J Reyes Esq, ED – Clerk of the House of Assembly

## DOCUMENTS LAID

The Hon the Chief Minister moved under Standing Order 7(3) to suspend Standing Order 7(1) in order to proceed with the laying of a document on the Table.

Question put. Agreed to.

The Hon the Chief Minister laid on the Table the Accounts of the Government of Gibraltar for the year ended 31<sup>st</sup> March 1999 together with the Report of the Principal Auditor.

Ordered to lie.

## BILLS

### FIRST AND SECOND READINGS

#### **THE DRUG TRAFFICKING OFFENCES ORDINANCE 1995 (AMENDMENT) ORDINANCE, 2001**

#### SECOND READING

HON CHIEF MINISTER:

I have the honour to move that the Bill to amend the Drug Trafficking Offences Ordinance 1995 be now read a second time.

This Bill forms an integral part of the Government's commitment to international co-operation in the fight against crime. The Bill addresses difficulties our judicial authorities have been encountering in complying with Letters of Request sent to us by foreign judicial authorities arising out of investigations into drug trafficking. In consequence, the Government now consider that an amendment should be made to the Drug Trafficking Offences Ordinance 1995 with respect to Production Orders.

As the Drug Trafficking Offences Ordinance 1995 currently stands "Production Orders" can be obtained under section 60. "Production Orders" is a term of art describing a court order requesting a named person to produce the documents referred to in the Order. A large number of applications have been made for such Orders as a result of requests received from abroad. In fact, most Letters of Request arise out of investigations into drug trafficking and Production Orders are invariably required as the evidence sought is usually in the form of documents held by financial institutions and locally registered companies.

The Drug Trafficking Offences Ordinance 1995 already makes provision for obtaining "Production Orders". The difficulty is that there is no provision for the onward transmission of the evidence seized to the requesting authority abroad. This means that although we can obtain a Production Order within a matter of days from receiving a Letter of Request, we cannot provide the requesting authority with the documents seized. To do that it is necessary for a Court to be nominated under section 40 with the Court calling the witnesses to give evidence and producing the documents again, this time in Court and as a formality. Nominating a court, calling witnesses and setting a date within the current state of the court calendar can take many months especially where Requests are urgent and this is thought to be undesirable. It would therefore simplify and speed up matters if a mechanism would exist for the onward transmission of evidence seized by virtue of a Production Order. Such a mechanism already exists in the case of Search Warrants. Section 43 of the Drug Trafficking Offences Ordinance allows the Attorney-General to apply for a Search Warrant where he has received a Letter of Request. That section, however, is of limited application as the only evidence that can be seized under it is evidence which is on premises owned or controlled by the defendant himself and that obviously provides our judicial authorities with difficulties where the evidence is being held by a bank, for example.

To overcome this difficulty, the Bill now before the House introduces a new section 43A into the 1995 Ordinance. This new section combines elements of section 43 relating to Search

Warrants, with elements of Section 60 relating to Production Orders in order to enable the Attorney-General to obtain a Production Order as soon as he receives a Letter of Request and for the onward transmission of the evidence after the Order has been executed. The Bill does not interfere with the existing section 60 which is left to stand for domestic Production Orders.

Mr Speaker, a number of administrative errors have crept into the printing of the Bill and there is an error of drafting which results in the existing section 43 being inadvertently repealed, which is not the intention. In this context I beg to give notice that at the Committee Stage I shall be moving a number of amendments, as follows:

Firstly, the heading of the second clause is to be amended by substituting for a reference to "section 43" a reference to "the Drug Trafficking Offences Ordinance 1995". Then, for the words "section 43 of the Drug Trafficking Offences Ordinance 1995 shall be replaced with", substitute with the words "2. After section 43 of the Drug Trafficking Offences Ordinance 1995 there shall be inserted....". The effect of that amendment will be that the proposed new section being introduced by this Bill will be added as section 43A after the existing section 43 which will remain in the principal Ordinance as opposed to as the Bill is presently printed which implies that section 43 is being repealed because it says "section 43 shall be replaced with the following new section". That is not going to happen. The following new section is an additional section 43A rather than instead of the current section 43.

I commend the Bill to the House.

Discussion invited on the general principles and merits of the Bill.

HON J J BOSSANO:

Mr Speaker, the first thing I need to say is that we need more time on this because we have been looking at this Bill entirely on the assumption that what was being done was replacing section 43

even though there seems to be a contradiction between the Explanatory Memorandum and the actual provisions in the law but since the Explanatory Memorandum does not form part of the Bill we assumed that it was the Explanatory Memorandum that was wrong which said the Bill amends the Ordinance by inserting a new section 43A but then when we went to look at it, it says that section 43 of the Drug Trafficking Ordinance shall be replaced by the following new section which is in fact putting section 43A in place of section 43. Consequently, in analysing the position that we ought to take in relation to the Bill, we were taking a position on the basis that this Bill appeared to be doing the opposite of what it purported to do since if we compared section 43 with section 43A there seemed to be more obstacles in this one than in 43. Given that we are keeping section 43 and introducing section 43A I think we need to re-examine the whole of the new provisions to see how the two sit together. I am afraid the explanation that we have had in the last 10 minutes is not sufficient given that the notice that we had of the Bill which effectively removed section 43 and one of the things we could not understand was why in section 43 it was enough to go to a Justice of the Peace and in section 43A it requires a Judge. That seems to us to be making it more difficult and not easier to do. Obviously, if we take everything today and we then go into the Committee Stage then I am afraid we are telling the House we have not had enough time in the light of the fact that we are not repealing section 43 and the whole approach of the issues we were going to ask for explanations on assumed that section 43 was not going to be there. My problem in speaking on the general principles of the Bill is that the principles that I thought that I was talking to which was a repeal of section 43 is not a principle in the Bill any more. Therefore, Mr Speaker, I cannot continue with the points I was going to raise given that section 43 is still there. They all related to the disappearance of section 43.

HON CHIEF MINISTER:

Mr Speaker, I have to say I have a considerable degree of difficulty comprehending the alleged difficulty that the hon Member is in and accepting what he says. On the basis that he



thought that we were repealing section 43 altogether all he then has to do is ignore the part of his notes which relate to his views on the principles of replacing section 43. The hon Member must also have formed a view by now, since he was due to speak on it this morning, on what he thought was section 43A(1) albeit that it was different. Mr Speaker, I can accept that it renders redundant some of what the hon Member might have wanted to say but I do not see that it affects what he was going to say about the text of section 43A itself. However, he should not worry because this is the Bill that the Government are going to leave on the agenda anyway as the one Bill that we need to carry forward to the next sitting. The hon Member will have plenty of opportunity to speak both as to the principle and as to the detail I suppose with Mr Speaker's indulgence when we come to the Committee Stage.

The hon Member has really only posed one question and that is that the new section 43A requires a Judge as opposed to a Justice of the Peace. Mr Speaker, the hon Member ought to bear in mind that this section is capable of being used against people who are not themselves under investigation but who have information relating to the investigated person - banks, people of that sort. Whereas the section relating to Search Warrants is limited to evidence under that section. One can only obtain information and evidence that is on the premises of the accused or investigated person. That does not apply in this case and it is therefore thought appropriate that entities, third parties, who may have potential issues of breach of confidentiality and will need maximum protection under the law should have the comfort that this matter will have been looked at by a senior Judge before they are required to give any evidence. That is the only point that the hon Member has made.

The other point that I should add is that this simply hastens a procedure that is already available in the sense that at the moment one cannot obtain a Production Order and then one has to have a court appointed, examiners they are called, and the evidence then has to be re-presented by the institution that had it in the first place, formally in evidence. Only then it is formally in evidence and only then can it be made available internationally.

This is designed to short circuit that and enable the evidence to be provided as soon as it has been obtained following the issue of the Court Order ordering it to be provided.

Question put. Agreed to.

The Bill was read a second time.

HON CHIEF MINISTER:

I beg to give notice that the Committee Stage and Third Reading of the Bill be taken at a later date.

### THE PIRACY ACT 1837 (AMENDMENT) ORDINANCE 2001

HON CHIEF MINISTER:

I have the honour to move that a Bill for an Ordinance to amend the Piracy Act 1837 as it applies to Gibraltar, be read a first time.

Question put. Agreed to.

### SECOND READING

HON CHIEF MINISTER:

I have the honour to move that the Bill be now read a second time. Mr Speaker, hon Members will recall that in April last year this House passed an amendment to the Criminal Offences Ordinance (Amendment) Ordinance abolishing the death penalty for what I think was the offence of arson in Her Majesty's Dockyard. Later, in June last year, we also introduced an amendment to the Prison Ordinance to repeal the part of the Prison Ordinance relating to how prisoners to be executed had to be dealt with once they were admitted into prison. At that stage we thought that we had removed from the Laws of Gibraltar all provisions relating to the death penalty. There is, however, in the

UK Piracy Act of 1837 a provision in section 2 that reads as follows:

“Whosoever with intent to commit or at the time of or immediately before or immediately after committing the crime of piracy in respect of any ship or vessel shall assault with intent to murder any person being on board of or belonging to such ship or vessel or shall stab, cut or wound any such person or unlawfully do any act by which the life of such person may be endangered shall be guilty of felony and being convicted thereof shall suffer death.”

Section 2 of that UK Piracy Act of 1837 is extended to Gibraltar by virtue of section 3 of our English Law Application Ordinance. Our English Law Application Ordinance makes provision for the extension of laws of UK laws to Gibraltar but not for their extension as they might from time to time be amended in the UK. If we in our Ordinance extend an English Law to Gibraltar and that law is subsequently amended in the United Kingdom it continues to apply in Gibraltar as unamended, as it was when it was originally extended to Gibraltar. That section of the UK Piracy Act of 1837 has in fact been amended in the UK, back in September 1998, under the Crime and Disorder Act of that year. When the UK therefore amended their own Act it did not have the effect of amending the version of the English Act that was applied to Gibraltar by virtue of our application of English Law Ordinance. There is specific provision in the Application of English Law Ordinance entitling this House to amend any United Kingdom legislation which has been extended to Gibraltar under the provisions of our Ordinance. We would not have that ability if the extension to Gibraltar were achieved on the face of the Act itself. If the extension of an English piece of legislation to Gibraltar is effected by the English Parliament then this House regrettably does not have the werewithal to amend that, but because the extension is by virtue of our own Application of English Law Ordinance, the Ordinance specifically says that this House can amend it. The purpose of this Bill is simply to finish off what we thought we had achieved back in April of last year which is to abolish all vestiges of the death penalty in Gibraltar by now removing it from this English Act as it applies to Gibraltar. I

commend the Bill and expect that it will enjoy the House's whole support.

Discussion invited on the general principles and merits of the Bill.

HON J J BOSSANO:

Mr Speaker, on the general principles of removing the death penalty we are obviously all in agreement since that has already been done in every other respect and there is no reason why it should be retained for this particular case. On the general principles of the use of the English Law Application Ordinance I must say I think it is the first time that I recall ever having seen a Bill before the House doing this and it certainly reads odd that it says here amending a UK Act of Parliament. I assume that technically this must be the way to do it although I would have thought that applying the section as it reads now in the United Kingdom presumably would be having the same effect. The only doubt that we have in our mind is that since we have not seen, certainly I have not seen it since 1972, a Bill here that amends a UK Act it looks peculiar but if the power is contained in that Ordinance, that is fine.

HON CHIEF MINISTER:

Yes, Mr Speaker, the power is indeed contained in the Ordinance. It cannot any longer be done by the UK given that this is not how their legislation reads. We would be in the rather peculiar position of the UK Parliament amending, for the purposes of Gibraltar only, a UK Act which for the purposes of the UK no longer reads as they are purporting to amend it from. That was the first point that the hon Member made. The second point that he made was.....

HON J J BOSSANO:

The point that I made was, if the law in the United Kingdom is changed already, do we have the power in the Ordinance now to say the Piracy Act shall apply as it reads now?

HON CHIEF MINISTER:

No, Mr Speaker, the hon Member is not there raising the mechanics for the amendment. He is simply raising there what he thinks the terms of the amendment should be. We can amend it to read whatever we like. This is to the same effect as in the UK. We cannot just adopt the UK Act because we do not know.....we will have to study to see what other amendments may have been introduced into the UK Act. All that the Government are attempting to do here is to substitute life imprisonment for death penalty. We are advised that is easily achieved by saying so in clear words. It may well be that this is exactly what the UK Act says. I cannot imagine there is more than one way of saying this but certainly the effect is exactly the same. It may be that the language is the same. I have not personally compared this language with the language that was used in the UK on the 30<sup>th</sup> September 1998 to bring about exactly the same results. If I was a beer drinking man I would bet a beer with the hon Member that this is the same words.

Question put. Agreed to.

The Bill was read a second time.

HON CHIEF MINISTER:

I beg to give notice that the Committee Stage and Third Reading of the Bill be taken today.

Question put. Agreed to.

#### **THE SOCIAL SECURITY (MISCELLANEOUS PROVISIONS) ORDINANCE 2001.**

HON CHIEF MINISTER:

I have the honour to move that a Bill for an Ordinance to amend the Social Security (Employment Injuries Insurance) Ordinance, the Social Security (Insurance) Ordinance, the Social Security

(Open Long-Term Benefits Scheme) Ordinance, and for matters connected thereto, be read a first time.

Question put. Agreed to.

#### **SECOND READING**

HON CHIEF MINISTER:

I have the honour to move that the Bill be now read a second time. Mr Speaker, the purpose of this Bill is to enable the Department of Social Security to modify the manner in which Social Insurance contributions are collected and have been for the past 48 years by making use of modern technology and introducing a more efficient computerised collection system. As announced in the Government Press Release of the 15<sup>th</sup> December 2000 the payment of Social Insurance contributions will be unified with the PAYE collection system and would now be payable in cash or by cheque and would no longer require the purchase and adhesion to a Social Insurance Card of Social Insurance stamps.

Mr Speaker, the new system will operate as follows: At the commencement of employment the new computer system in the Department of Social Security will generate a quarterly contribution schedule for each employee or self-employed person registered with the Employment Service and the Department of Social Security. This quarterly schedule, which has to be returned within 15 days after the end of each quarter, will replace a yearly insurance card that was previously issued in respect of each employee or self-employed person. Four quarterly contribution schedules will be issued by the Department's computer in respect of each contribution year in respect of each employed or self-employed person. This document will serve as a record of the number of contributions paid in respect of an insured person in a contribution quarter and that information will be recorded on a quarterly basis in the insured person's file held

on the computer. Employers may also submit the information required from them on a diskette version of the paper schedule. For those employers that are computerised they can just hand in a computer diskette containing the information rather than on the manual form. It is envisaged that a secure e-mail facility may be available before the end of the year by which the return can be made. It should be noted that the actual payment of contributions have to be made to the Income Tax Office on a monthly basis, not later than 15 days after the due date. Although the information is returnable by the employer quarterly, payments have to be made monthly. At the end of each contribution quarter the computer system will reconcile the relevant monthly payments with the quarterly schedules of information returned by the employers. A similar procedure will apply in respect of self-employed persons and persons making voluntary contributions.

Mr Speaker, the benefits and advantages of these new arrangements, the Government consider to be the following: first, it is obvious that employers in general will benefit administratively from the new unified collection system. As from the 1<sup>st</sup> January 2001 there has been no further need for employers to purchase and affix Social Insurance stamps on cards on a weekly basis. The relevant payment for Social Insurance contributions can now be made at the Income Tax Office at the same time as PAYE when they both become due at the end of each month. Furthermore, the security risk of employers having to hold large quantities of insurance stamps will also be eliminated. Mr Speaker, therefore from the employers' point of view the advantages are that one does not have to send the staff to the Post Office to queue up to buy these Social Insurance stamps and then throughout the year the employer having invested in stamps and having stuck them on the cards, they then keep somewhere in their office, there is always a security risk because until that card is handed in at the end of the year, if that card is stolen or gets mislaid then the employer will in effect have lost all the value of the stamps that he had affixed on the card up to that date. Of course one does not comply with one's obligations by going to the Post Office to buy the stamps, one complies with one's obligations by handing in the card at the end of the year

with 52 stamps stuck on it. Throughout the whole year employers were running risks of theft or loss of these Social Insurance stamps that the law presently requires them to purchase and affix on to their cards.

From the Government's administrative point of view the new system will be far more efficient. The fact that contributions are paid monthly and recorded in the insured person's file on a quarterly basis will enable the Department of Social Security to detect and follow up the non-payment of contributions more speedily and effectively. Details of employers in arrears will now be available on a monthly basis whereas before no information was available until about eight months after the end of the contribution year. An added benefit of the new computerised system is the wealth of statistical information about insured persons and employers that will now be readily available whenever the hon Members choose to ask them. Hon Members may be aware that when employers are not complying with their Social Insurance contributions there are two losers - one is the Government that loses revenue but another loser is the employee. The other loser is the employed person himself whose pension contribution record has been affected, whose entitlement to some of the statutory benefits are being affected. But, of course, because the employer does not have to hand in the card until the end of the year and then there was a long period of administrative grace, employees could never find out if they were being jeopardised by their employers' lack of compliance with the employers' obligation. There are cases of employers who are deducting the employee's contribution from the pay packet, then not buying the stamps and affixing them. That year runs out, eight months later and perhaps with the administrative delays that there are in following up arrears it could be two or three years of arrears to the prejudice of the employee but the employee is not aware of that situation. The present position, with this amendment, will enable the Government to monitor on a monthly basis whether employees are in compliance. It will therefore be possible for employees to come in and obtain up to date information during the course of a year as to whether their employer is making their contributions to the Department of Social

Security. Therefore, everybody wins in the Government's judgement. There are advantages to the employer, security, less bureaucracy, less having to send staff to queue up in the Post Office. The employee has greater security that his rights are being protected to timely compliance which he is better able to check. The Government obtain an improved cash flow from the fund from these purposes and the House and the Government both benefit from an availability of a much larger amount of management information in terms of employment statistics and things of that sort. Therefore, Mr Speaker, I commend the Bill to the House in the hope that the Opposition Members will see the virtue of these amendments which, in any event, are nothing more than the necessary statutory amendment to policy announcements that Government have already announced. I commend the Bill to the House.

Discussion invited on the general principles and merits of the Bill.

HON J J BOSSANO:

Mr Speaker, we have no problem with the principle of collecting the money through the Tax Office as opposed to collecting it by insurance stamps. Obviously, it is not a change, as far as we are concerned, of policy in terms of Social Insurance. It is simply what is the most efficient way of getting the contributions in and credited to the fund which belongs not to the Government, as far as we are concerned, but to the employees because it is for the benefit of the employees that these contributions are made. Much of the information that we have been provided with in the context of the general principles of the Bill is not contained in the Bill. Presumably this will be reflected in the Regulations for which there is provision and obviously, in the light of the information that has been provided, we will in future be seeing how it is working once it has been brought in.

I think there are a number of points that I would like clarification on. One is how can it be that since the 1<sup>st</sup> January 2001 there has been no further need to pay Social Insurance stamps and people have been able to do it by going to the Tax Office when

that is what we are legislating to enable now. In fact, if they have been going to the Tax Office how did the Tax Office have the legal authority to collect the payments over the counter since that is supposed to be the result of the decision that this House has not yet taken in creating that possibility. Obviously the Regulations that need to be passed will be after the Ordinance receives the consent so if it has been happening already, that would indicate that it is possible to do that administratively without the law being changed. If it is not possible to do it then it is difficult to see what the legal basis for these payments have been until now and will continue to be until this whole process is put into the statute book. The other element of principle is that the move from fines to the levels which we support, although it has not been mentioned because that is a principle which has been going on for a very long time and I think we need everything in place in terms of the levels of fines as opposed to amounts of money which has not been mentioned. I say we are in favour of it although it has not been mentioned, the amendments which substitute for amounts of money levels of fines is a process which we support. In terms of one specific point that does not seem to me to fit in, there is in the provisions under the proposed section 8 of the Ordinance, the substitution of the existing section 8 by a new section 8 which is on page 19, it is headed "Method of Payment of Contribution". Mr Speaker, (a) in section 8 says that Regulations may be made for assessing the amount of contribution liable to be paid by any person. I do not think that is about the method of payment which is what the title of that section is and I do not think it fits in with the other provisions in the other sub-sections which are all about the methodology as opposed to the quantum of contributions. I think that assessing the amount of contribution that a person has to pay does not fit in there and I am not sure what the implications of that are. At least that appears to be saying that Regulations made under the part of the Ordinance which deals with the method of payment can in fact determine the value of the contribution in relation to the benefit. If it is assessing the amount of contribution liable to be paid presumably it is assessing the amount of contribution liable to be paid in order to qualify for something. I thought that that was taken care of elsewhere in the Ordinance and not under "Method of Payment".

I do not think that the present section 8 which is not in exactly the same form as this one I do not think covers that point. It is something that I am bringing to the notice of the House so that it can be looked at between now and the Committee Stage.

HON CHIEF MINISTER:

I am grateful to the hon Member for his indication of support to what this Bill is trying to achieve. If I could just answer his first point first - how has the system been working since the 1<sup>st</sup> January given that the legislation is not yet in place and does that mean that the legislation is unnecessary? The answer is that under the present legislation, and indeed under the new legislation, Social Insurance contributions are payable in arrears, monthly, but in arrears, and therefore no liability arose in respect of the year 2001, no liability arose until the end of January. I suppose a very punctilious employer would have rushed on the 1<sup>st</sup> February to buy his stamps but of course that only reflects in Government seeing the turnover of sale of stamps at the Post Office because nothing is returned. The fact that the existing law says that one must affix your stamps on a monthly basis, Government have no way of checking because the cards do not have to be returned until after the end of the year. What normally happens is that the Government see a steady sale of Social Insurance stamps at the Post Office but do not know whether people are just sticking these on cards or hoarding them in their safe. No one has been under an obligation to purchase any stamp under the old system certainly until after the end of January and then in respect of the month of January.

Mr Speaker, I would like to give the hon Member confirmation of this during the Committee Stage but my understanding is that the Government are just taking the view that when this legislation is in place people will just comply back to the beginning of the year given that compliance under the old regime does not mean that anything was sent to the Government. It simply means that stamps are bought from the Post Office so the Government are suffering some very temporary cash flow loss, or the fund is suffering some very temporary cash flow loss, resulting from the

fact that no stamps have been sold during February and March. When this legislation is put in place that will be just taken up under the new system. I give way to the hon Member.

HON J J BOSSANO:

My query was not about whether they were buying stamps for the cards but the Chief Minister mentioned at the beginning that people, since the 1<sup>st</sup> January, have been able to go and make payments at the Tax Office. I was questioning how the Tax Office was able to collect these payments if in fact they require the authority of the law to do it. The other thing in relation to what happens at the turn of the year, I accept what is being said about the buying of stamps but of course the stamps theoretically have to be bought to affix to cards and the law requires that people have to change their cards in the first week of January. There used to be a Legal Notice that came out saying that and that was a legal requirement. Presumably that has not happened?

HON CHIEF MINISTER:

Mr Speaker, yes. The last part of what the hon Member has said has happened. People still have to exchange their last year's card. What we are saying is about this year's contribution. My understanding is that the Income Tax Office has not yet started collecting the cash. We are in the interregnum period and once this legislation is in place the new system will start to operate.

If I could then move on to the second point that the hon Member made about the heading at page 19 and new section 8. Of course, I am sure the hon Member will wish to extend his point to the other two or three places where the same point arises in the Bill. It arises, for example, again in the amendment on page 15 and it arises on the amendment on page 19 because this Bill amends several Ordinances all in the same way. Mr Speaker, I have not got the old Ordinance in front of me so I do not know what the heading of that..... but this is really the Regulation-making power which deals with many things that Regulations may be made for. The hon Member knows that the rate of Social

Insurance contributions and how much of it attaches to which of the various functions for which contributions are made through the stamp, that is already a matter of executive decision which does not require principal legislation. The other point is that the heading itself, even if misleading, I do not know whether that is the heading in the old Bill, certainly the heading is much narrower than all the things that can be done under it and I suppose the proof of the pudding is not just in the eating, not just in reading the section, the list, but also if the hon Member looks in section 8 it says ".....subject to the provisions of this Ordinance, Regulations may provide for any matters incidental to the payment and collection of contributions."

HON J J BOSSANO:

The point is that this seems to imply, on my reading of it that for assessing the liability, it is not about how the payment is made. It is assessing how many contributions have to be paid by a person. My understanding is that when we have regulations.....

HON CHIEF MINISTER:

No, no, I think the hon Member is misreading amount. "Amount" means amounts of money of, in other words the value of contributions.

The hon Member is reading this as if it read for assessing the number of contributions liable to be made by a person whereas I think the intention is for assessing. One does not assess the number of contributions, one assesses the monetary value of each contribution. I think that is what this is intended to look at but I will have the matter clarified before we take the matter at Committee Stage.

I will be moving one or two amendments, Mr Speaker, to this Bill. The alteration of the reference from "Governor" to "Minister" in section 54(4)..... If hon Members look at pages 13 and 14 they will see there at section 9(6) the list of sections in which the reference is changed from "Governor" to "Minister". Amongst that

is section 51(4) which is the section that relates to the control of the fund itself. Of course, it was not the intention that the control of the fund should be changed from the Governor to the Minister. All funds are controlled by the Financial and Development Secretary and it is the Government's intention that that should be the case also with this fund so that I will be moving an amendment that in the case of amendment to section 51(4) only, (h) at the top of page 14, the amendment will read by substituting for the word "Governor" the words "Financial and Development Secretary". That will make the Social Security Funds consistent with what we did with the other Special Funds when we did the Open and Closed Long-Term Benefits Funds, that those funds and this would be under the administrative control of the Financial and Development Secretary. I shall be moving a consequential re-lettering of paragraphs consequential on that.

Question put. Agreed to.

The Bill was read a second time.

HON CHIEF MINISTER:

I beg to give notice that the Committee Stage and Third Reading of the Bill be taken later today.

Question put. Agreed to.

## THE SOCIAL SECURITY (INSURANCE) ORDINANCE (AMENDMENT) (NO.2) ORDINANCE 1999

HON CHIEF MINISTER:

I have the honour to move that a Bill for an Ordinance to amend the Social Security (Insurance) Ordinance, be read a first time.

Question put. Agreed to.

## SECOND READING

HON CHIEF MINISTER:

I have the honour to move that the Bill be now read a second time. Mr Speaker, the purpose of the Bill is to facilitate the transfer of monies which are surplus to the requirements of the Short Term Benefits Fund to the Consolidated Fund or any other Special Fund. Similar provisions already exist in the Social Security (Open Long-Term Benefits Scheme) Ordinance and the Social Security (Closed Long-Term Benefits and Scheme) Ordinance. This amendment will bring the Social Security (Insurance) Ordinance in line with these and enable surplus monies to be transferred out of the Short Term Benefits Fund. Mr Speaker, this will bring the Short Term Benefits Fund not just into line with the Open Long-Term Benefits and the Closed Long-Term Benefits Fund but also the other Special Fund where it is possible to transfer monies from one fund to the other. Hon Members will be aware that large balances have built up on the Short Term Benefits Fund as a result of the failure to adjust the element of the stamp that contributes to that fund.

I commend the Bill to the House.

Discussion invited on the general principles and merits of the Bill.

HON J J BOSSANO:

Mr Speaker, we are opposed to this particularly in the light of the reference to large balances being built up on the fund. I think that if we were talking about a fund which exists to pay short term benefits which require relatively small outlays then obviously if there is too much money coming into the fund, then the Government can redistribute the revenue of the fund by altering the balances between the contribution breakdown. That is how it has been done in the past. When those provisions were put in the old funds they were put on the basis that we had a situation where those funds were intended to disappear. Since 1996, as far as I am concerned, the whole thing has been put to bed and it

is difficult to envisage a situation where Social Insurance contributions by employers and employees should create surpluses which are not required for the purpose for which the money was provided and therefore can then become part of the general revenue of the Government and be used for anything else, converting the Social Insurance Fund basically into a tax in that context. People are paying for a benefit. We do have as a normal provision that when Special Funds outlive their purpose, the money that is left over can be used under the Public Finance (Control and Audit) Ordinance as part of the General Revenue of the Government because it is a fund that has ceased to have a use. When one has got a continuing fund paying benefits and receiving contributions, if there are funds surplus to requirements it is only because of the imbalance between the income and the expenditure of those funds and those surpluses can be eliminated by either giving more benefits or reducing the contributions. There is no need to transfer the money elsewhere. It is one thing that it may have been there historically and another thing to be thinking of actually making use of it.

HON CHIEF MINISTER:

Mr Speaker, I have to say that I am slightly surprised to hear the hon Member now extol the virtues of relieving employees of the burden when the fund no longer requires it. The surplus on this fund has built up precisely because during the years that the hon Member was in office, the fund collected nearly £1.5 million a year but paying out benefits of only a couple of hundred thousands. I regret that the hon Member did not have this policy at the time that he was in a position to do something about it when he could very easily have done what we have done which is to adjust the element of the stamp that is paid in this way and thus contribute to our ability to only increase Social Insurance contributions once in the five years that we have been in office as opposed to the hon Member who used to increase it systematically by 10 per cent in each of the seven out of the eight years that he was in office. Mr Speaker, we have taken the remedial action that the hon Member now recommends but did not see fit to implement himself at the time. Not only did he not take his own good advice at the



time, but indeed he used to annually increase the Social Insurance contributions, including the Short Term Benefits Fund contribution, notwithstanding that he was already collecting £1.5 million a year when the fund's expenditure was only two or three hundred thousand pounds. The hon Member will forgive me if I express surprise that he should now express the views that he expresses which at the very least are not consistent with what used to be his views when he was on this side of the House and I was on the other.

Mr Speaker, the other point that I would like to make to the hon Member is that these funds do not relate to the delivery of benefits. The Short Term Benefits Fund is a fund created under the Social Insurance Ordinance. That creates statutory benefits. Those statutory benefits are payable and would be paid by the Government even if the fund was zero. The Government would just have to fund it. It is politically inconceivable that any Government could turn round and say "you cannot have your unemployment benefit because there is no money left in the fund". Mr Speaker, this is the Short Term Benefits Fund, which deals with unemployment benefits, death grants, maternity grants. It is only those three things that are paid. This is not the Pensions Fund, this is the Short Term Benefits Fund which pays the remaining statutory benefits as opposed to the now much more common, thankfully, discretionary benefits under the Social Assistance Scheme. I cannot remember how much of it there is, a very significant surplus which could be used for other purposes and which in any case the balance of the fund does not determine the amount of benefits or the number of people that obtain benefits. Mr Speaker, since what the Government intend to do does not affect the receipt of their benefits by anybody, which are statutory and the Government have to be paid anyway, and secondly the Government have already done what the hon Member was recommending. If he looks at the current breakdown of the Social Insurance Fund I think he will find that the contribution to the Social Insurance (Short Term Benefits) Fund is just a few pennies. I have not got the exact amount in my head but it is a very small part of this fund and therefore this in effect amounts to a transfer of surplus funds to general reserves

where they can be used for the payment of other social benefits which cannot be paid out of this statutory fund for reasons that the hon Member will understand and do not wish to discuss in such a public forum.

Question put. The House voted.

For the Ayes: The Hon K Azopardi  
The Hon Lt-Col E M Britto  
The Hon P R Caruana  
The Hon H Corby  
The Hon Mrs Y Del Agua  
The Hon J J Holliday  
The Hon Dr B A Linares  
The Hon J J Netto  
The Hon R R Rhoda  
The Hon T J Bristow

For the Noes: The Hon J L Baldachino  
The Hon J J Bossano  
The Hon Dr J J Garcia  
The Hon S E Linares  
The Hon Miss M I Montegriffo  
The Hon J C Perez  
The Hon Dr R G Valarino

The Bill was read a second time.

HON CHIEF MINISTER:

I beg to move that the Committee Stage and Third Reading of the Bill be taken later today.

Question put. Agreed to.

**THE LEGAL AID AND ASSISTANCE ORDINANCE  
(AMENDMENT) ORDINANCE 2001**

HON CHIEF MINISTER:

I have the honour to move that a Bill for an Ordinance to amend the Legal Aid and Assistance Ordinance, be read a first time.

Question put. Agreed to.

**SECOND READING**

HON CHIEF MINISTER:

I have the honour to move that the Bill be now read a second time. Mr Speaker, the purpose of this Bill is to extend the current legal aid regime on appeals to the Privy Council. A recent case involving an appeal to the Privy Council has revealed that certainly in the case of civil appeals, legal assistance is not available as it is in the case of appeals to the Court of Appeal. The Privy Council, of course, is although situated in the United Kingdom, an integral part of the appellate Court structure in Gibraltar and the Government do not consider that it is appropriate that those on legal aid and otherwise without the means to pursue an appeal should be denied legal aid in the case of appeals to the highest court in the land. There is also the not inconsequential question of whether the fact that there is no legal aid available on appeal to the Privy Council may be a breach of the European Convention of Human Rights which, in the case of difficult and complex cases, says that the absence from legal aid and assistance is a denial of access to the courts. The Convention does not say that but that is the interpretation that the European Court of Human Rights has placed on a provision of the European Convention of Human Rights and therefore what this Bill achieves is to extend legal aid to appeals to the judicial committee of the Privy Council. I commend the Bill to the House.

Discussion invited on the general principles and merits of the Bill.

HON J J BOSSANO:

Mr Speaker, we will support the Bill on the basis of the explanation that has been given that people should not be denied the opportunity. If in the first instance they merit legal aid then lack of money should not be what prevents them from getting justice. I do not think there is an argument against that.

Question put. Agreed to.

The Bill was read a second time.

HON CHIEF MINISTER:

I beg to move that the Committee Stage and Third Reading of this Bill be taken later today.

Question put. Agreed to.

**THE COMPANIES (EXECUTION OF DOCUMENTS BY  
FOREIGN COMPANIES) ORDINANCE 2000.**

HON K AZOPARDI:

I have the honour to move that a Bill for an Ordinance to amend the Companies Ordinance, be read a first time.

Question put. Agreed to.

## SECOND READING

HON K AZOPARDI:

I have the honour to move that the Bill be now read a second time. Mr Speaker, this is a short Bill. The background to this Bill is that the Companies (Amendment) Ordinance 1999 was given effect on the 1<sup>st</sup> January 2000. That Ordinance introduced provisions relating to the abolition of corporate seals for companies incorporated in Gibraltar and companies incorporated outside Gibraltar. As a result of that the execution of documents by companies incorporated in Gibraltar and outside Gibraltar was facilitated. The effect of this Bill is to give retrospective effect to the provisions of the Ordinance relating to execution of documents by foreign companies. Additionally, by way of background Mr Speaker, many foreign jurisdictions do not recognise the concept of a corporate seal and the validity of documents executed by foreign companies without a corporate seal prior to the giving of effect to the Ordinance will be by virtue of these provisions and for the avoidance of doubt deemed conclusive as a result of these provisions. Therefore, this Bill is intended to give retrospective effect to the provisions introduced by the 1999 Ordinance abolishing the requirements to have a corporate seal for foreign companies in respect of all the deeds, instruments and other documents executed by foreign companies during the period of six years prior to the 1<sup>st</sup> January 2001 as is laid down in the amendment to section 31(9). Any documents executed during that period will be deemed to have been validly executed provided that they were executed in the manner provided in the amendment that we are moving to the Companies Ordinance in the form of this Bill. It is a minor but necessary Bill. I commend the Bill to the House.

Discussion invited on the general principles and merits of the Bill.

HON DR J J GARCIA:

Mr Speaker, there are a number of questions which the Opposition would like clarification on in relation to this Bill.

Although the amendment might itself be a small one and although what it does is quite clear, there are a number of issues where we would like some clarification from the Government. The first issue would be that this Bill as the Minister says quite correctly was the result of an amendment to section 31 that was carried out in 1999 and which was subsequently enacted by this House with eight sections and this actually establishes nine sections which seek to clarify the position which the Minister has already explained. What we do not have clear is first of all whether anything happened between the original Ordinance that we are now amending to-date and which has given rise to the need for this extra clarification by adding a new section 9. Secondly, Mr Speaker, it is also not very clear why the cut-off points have been the question of six years. Why is it that it has given retrospective effect but only in respect of the last six years? Is there a specific reason for that which certainly we are not aware? I will give way to the hon Member if he would like to answer those points because there are two issues that we wanted to raise.

HON K AZOPARDI:

Mr Speaker, to answer the hon Member's question on the clarification at this stage, I think both issues are tied in with each other as it were. What happened apparently was that the Gibraltar Ordinance has always been, I am advised, silent on the issue of foreign companies and corporate seals. We provided that there should be corporate seals in relation to Gibraltar companies but in respect of foreign companies it has been silent. The position taken historically as far as I am aware and certainly practised by a number of lawyers in Gibraltar has been that to decide how foreign companies execute deeds and documents in Gibraltar one has to go to the country of incorporation of that company and see what rules govern the execution of documents by that company at its registered seat as it were. The amendment made in 1999 apparently was an amendment on the basis of avoidance of doubt. The Government, when it moved the amendment in 1999, did not feel that we needed to, but we always felt that one had to look at the seat of the foreign company to decide what rules govern it but we thought that for the

avoidance of doubt it was better to express the point that one should go to that company's seat, not because we as a Government felt that there was any great need to do so but perhaps because there seemed to be, at the time we were being told, some doubt in the industry. The further background that may help the hon Member is that indeed there seems to be conflicting advice even though I personally feel that that has always historically been the case and we have always had to analyse where the foreign company has been incorporated to see what rules govern the execution of documents. I am told that as a result of the restructure of one of the banks in Gibraltar that ceased to be a Gibraltar-incorporated entity but rather became a branch of a Dutch entity, lawyers acting for other banks in Gibraltar were giving their client banks were that the position was not clear in respect to the execution of documents by a foreign company and indeed that the position had not been made retrospective and so therefore even though the position had been clarified back in 1999 that because it had not been made retrospective there were whole series of transactions which were being held up, kept in abeyance or not proceeded with as a result of the lack of retrospection. The Government felt that it was appropriate, given that we have always felt, in any event, that we should go to the company of incorporation to see what rules govern the execution of documents, and no negative issue will arise as a consequence of this Bill to come to the House with a clarification of the position. I understand that there are two banks in Gibraltar that are not really doing transactions as a result of their lack of clarity even though there has been counsel's opinion taken in London as to the extent of the situation in Gibraltar and indeed confirming the position that they should go to the country of incorporation for the rules. The cut-off point is all tied up with the restructure of that Gibraltar entity. I understand that it is all related to that transaction and I am told that the cut-off point of six years also is taken generally as a good time for there to be a cut-off and rolled up with that initial query as to the extent of the retrospection and the extent that this Bill has had an impact on Gibraltar law. I hope that is useful clarification.

HON DR J J GARCIA:

Mr Speaker, I am grateful to the Minister for that reply. We take it then that the reason for the six years is linked to the question of the Dutch bank, a one-off case.

HON K AZOPARDI:

It is six years retrospection but not a one-off. Everyone who falls into that net, but I am told that it is generally aimed at this situation.

Question put. Agreed to.

The Bill was read a second time.

HON K AZOPARDI:

I beg to give notice that the Committee Stage and Third Reading be taken today.

Question put. Agreed to.

#### **THE COMPANIES (AMENDMENT) ORDINANCE 2000.**

HON K AZOPARDI:

I have the honour to move that a Bill for an Ordinance to amend the Companies Ordinance, be read a first time.

Question put. Agreed to.

## SECOND READING

HON K AZOPARDI:

I have the honour to move that the Bill be now read a second time. Again, Mr Speaker, a short Bill providing desirable amendments to the Companies Ordinance. The background to this is that at present a company may only be struck off the Register after lengthy and protracted proceedings, sometimes expensive procedures of notification to all interested parties. This, obviously, is correct in the case of existing companies which are active but there are many companies in the Register which are effectively dead and have been so for many years. The Bill proposes a more simplified method of striking such dead companies off the Register. Any company which has not filed an Annual Return since the 1<sup>st</sup> January 1993 may be struck off, after the Registrar of Companies has notified his intention to do so after publication in the Gazette. If, within three months of publication, no representations have been made to the contrary, the company is struck off. This will provide a simpler and more effective and inexpensive method of getting rid of the dead companies. Hon Members of course are aware of all that speculation and allegations that are made, we have spoken about this before in the House in Question and Answer sessions, about the number of registered companies in Gibraltar and we always say that we like to talk about the number of active companies because it just gives food for those who want to criticise Gibraltar to do so unjustifiably. Hopefully, this Bill will be able to clarify the position substantially by removing all those dead companies. If the hon Member wants to have an idea of how many companies we envisage can be tackled through this, we do not have a specific figure but Companies House say to me that it will go into the thousands given that they make their own assessment that we have about 29,000 active companies in Gibraltar. The hon Member will be able to gauge from that against the number of the last registered number that there are thousands of companies that will be dealt with expeditiously on this basis.

I commend the Bill to the House.

Discussion invited on the general principles and merits of the Bill.

HON DR J J GARCIA:

Mr Speaker, there are again a couple of areas where we would like clarification in relation to this particular Bill. The Minister has mentioned, and the Explanatory Memorandum of the Bill also mentions, that this applies to companies which have not filed Annual Accounts since before the 1<sup>st</sup> January 1993 which implies the period leading up to 1993 but not the period 1993 to date. The actual Bill in its text instead of mentioning before 1993, which is what the Minister says, and what the Explanatory Memorandum says, refers only to companies in default since the 1<sup>st</sup> January 1993 which implies from 1993 to date and not the period before 1993. That is one area we would like the Minister to clarify. The second point will be in relation to the use of 1993, is there a particular significance which the Opposition has not been able to establish in relation to that particular date?

HON K AZOPARDI:

I thought that I had said that it was intended to put in place a procedure that if one has not filed an Annual Return since 1993 one can commence a striking off procedure. That is what the Bill is intended to do and indeed on the face of it does do that under section 267A(1) it makes clear that if one has not filed an Annual Return since the 1<sup>st</sup> January 1993 one can commence that process. I think that is consistent with the intention of the Government and it is reflected in that. Why that date was arrived at, I think it was in discussions between Companies House and the LSU and it was arrived at because that is the date that the Companies House (Gibraltar) Ltd took over the administration and then can speak for the administration of those companies quite clearly. They did not want to give undertakings or commence procedures that they had not administered themselves. For additional clarification I now understand that the hon Member will be interested that it may even affect about 20,000 companies.

HON DR J J GARCIA:

I am grateful to the Minister for the reply. It was only that it seemed to the Opposition that the position as explained in the Explanatory Memorandum and the position as explained in the Bill were two different positions. We now understand what it is that the Bill purports to do.

HON J J BOSSANO:

Can I ask to what degree is this going to speed up the process? What precisely is it that the provisions dealing with companies in default, which can already be removed but presumably take longer, how exactly is it that this speeds it up? I notice that there is the avoidance of having to put certain notices. Can we have an indication from the Minister how in practice this cuts down the period within which it will be possible to deregister a company? It is correct that they can already be deregistered, I take it, if they are not making Annual Returns?

HON K AZOPARDI:

Mr Speaker, I do not have the particular provisions in front of me but from memory the procedure is more lengthy. One has to give more notices, more time period has had to elapse and one has to give individual notices. I understand what is intended is to have some sort of collective notices drafted to enable the speeding up of the process substantially. Under the current procedure I understand one would have to write to individual companies giving them notice and then one would expect a response from them. All of that tends to delay the process substantially. Mr Speaker, just looking at section 267(1) of the current Ordinance it says "where the Registrar has reasonable cause to believe that a company is not carrying on the business or an operation he may send to the company by post a letter enquiring whether the company is carrying on the business or an operation....". Of course, that links in this concept of reasonable cause which I understand the Registrar is having difficulty with when addressing his mind as to what company should be struck off the Register.

Then what follows in the current Ordinance is a description of the procedure which, if the hon Members care to put side by side with these current provisions, they will satisfy themselves that this is indeed a simplification of the latter, I would be happy to discuss it in greater detail at Committee Stage.

Question put. Agreed to.

The Bill was read a second time.

HON K AZOPARDI:

I beg to give notice that the Committee Stage and Third Reading of the Bill be taken today.

Question put. Agreed to.

## THE ELECTRONIC COMMERCE ORDINANCE 2000

HON K AZOPARDI:

I have the honour to move that a Bill for an Ordinance to facilitate the use of electronic means to transmit and store information, to provide for agreements concluded by electronic means to be binding, and to provide the framework within which electronic service providers operate, be read a first time.

Question put. Agreed to.

## SECOND READING

HON K AZOPARDI:

I have the honour to move that the Bill be now read a second time. Mr Speaker, we have discussed during the Question and Answer Session the progress of this Bill from time to time. The

Government have intended to bring e-Commerce legislation to this House for a few months. Indeed, this is the Bill that seeks to do so. Just to give a description to hon Members of the different parts of the Bill, because it is an extensive document, it seeks to implement two EC directives - the Electronic Commerce Directive which was passed by the Commission in June last year and the Electronic Signatures Directive. The Bill is divided into four parts. The first part deals essentially with contracts concluded by electronic means, that is, either the internet or by e-mail or such other electronic communications as may be designed. Basic standards for service providers are laid down for the protection of consumers. Clear and accessible information must be provided in each step concluding an electronic contract by service providers established in Gibraltar. An important point to note is that all seven provide that Gibraltar law apply to any contract entered into through a service provider established in Gibraltar. The Minister is also given powers to set out approved codes of conduct established by service providers in the industry in relation to their services. Part 1 really capsulates the transposition of the E-Commerce Directive.

Part 2 is the transposition of the Electronic Signatures Directive. We wanted to split it up because they are really different directives. One is much more technical than the other. It provides that electronic signatures will be just as valid as handwritten signatures specially supported by an accreditation certificate provided by a certification service provider. Such providers are third party who guarantee the authenticity of the electronic signature to the comfort of both consumer and supplier. Although there is no requirement for a certification service provider to be approved, it is proposed that there is power in the Bill so that the Minister can prescribe certain standards to be met to achieve approval of those certification service providers. Obviously, certification service providers will be liable in certain circumstances to any third party to suffer loss as a result of relying on the certificate but that is no different to the non-electronic world.

Part 3 of the Bill deals with the effect of electronic transactions. Again that really are provisions stemming from E-Commerce Directive and they provide that rules of evidence in relation to paper documents will be equally satisfied by a document in electronic form if there is no question about the integrity of the document.

Part 4 provides for miscellaneous matters such as regulation-making powers and power of the Government to require service providers to remove any material which may be against public policy. I should add that a consultative paper was issued back in July last year. Comments were received by a whole variety of individuals and representative organisations. Many of them have been incorporated into this Bill. The Bill has also met the general broad support of those who have made representations to Government with those constructive suggestions and I take the opportunity of thanking them for those constructive suggestions made at the time. The industry is keen that this Bill should go forward at the earliest opportunity. The earliest opportunity has been today because of the fact that the Bill was published after it was finalised when the consultative comments were taken into account and this is the first opportunity we have had to take this to the House. I commend the Bill to the House.

Discussion invited on the general principles and merits of the Bill.

HON DR J J GARCIA:

Mr Speaker, in relation to this particular Bill there are certainly a number of areas where the Opposition would like to seek clarification and explanation from the Government. We were not sure when we received the Bill whether this is actually the transposition of European Community Directives or not because it is not mentioned in the Bill itself. Is this a requirement of both the Electronic Commerce Directive and the Electronic Signatures Directive that this should be the case. Having now heard that it is the case and that we are implementing two directives in this particular Bill there are a number of issues which arise from that which we would welcome clarification from the Minister.

The first of these relates to the question of the general framework within which the directives have been drafted and implemented in the European Union Parliament. The E-Commerce Directive refers to a framework of privacy and data protection and mentions a series of other directives within which these two are to be read or to be implemented and taken. We are not sure what the position is in Gibraltar in relation to data protection and in relation to privacy and it is certainly an area we would welcome the views of the Government in relation to what the actual position is. Mr Speaker, we also note the discrepancies which arise in relation to the question of the Code of Conduct of the service providers and also certification of service providers. The Minister has indeed mentioned that there is no requirement to approve them under the directive but that we are going to require that approval anyway in Gibraltar. What we do not know is the reason why that particular view has been taken by the Government in relation to this.

Mr Speaker, there are a number of other issues which arise and in the question of the code of conduct, for example, the preamble to the directive leaves it quite clear that Member States and the Commission are to encourage the drawing up of codes of conduct. This is not to impair the voluntary nature of such codes and the possibility for interested parties to decide freely whether to adhere to such codes. On that particular one it seems pretty clear first of all in relation to the intention when establishing, drawing up the directive in the preamble, and secondly in the actual directive itself, which again speaks of the voluntary nature of these particular Codes. We would be happy to hear from the Minister why it is that the Government have taken a different position on this from that laid out in the directive that applies to the certification service providers and it also applies to the ISP? In the actual directive itself it mentions and goes into these particular issues and on the question of prior authorisation it says "...the Member State shall ensure that in taking up on pursuits of the activity of, an information service provider may not be made subject to prior authorisation or any other requirements having equivalent effect." I think that applies in both cases so we would be very grateful to know from the Minister why it is that the

Government have felt it necessary to make these changes from the directive to the Bill with regard to its transposition in Gibraltar?

Mr Speaker, we know that there are a number of points which are mentioned in the directive which are not mentioned in the Bill or at least which the Opposition have not been able to establish regarding the question, for example, of opt-out registers of regulated professions and also we note that where as the directive refers to the courts or an administrative authority in relation to areas where there may be illegal activity or where investigations are required the Bill gives those powers to the Minister. In Article 14 it mentions that this Article should not affect the possibility for the courts or administrative authority in accordance with Member States' legal system requiring the service provider to terminate or prevent an infringement nor does it affect the possibility of Member States establishing procedures governing the removal or disabling of access to information. The references to courts and administrative authority in the directive are powers which are given to the Minister in Gibraltar. Whereas in some cases, if one goes through the Bill, one finds that they might be made in the sense that it is practical to do so, in others it does not seem to us why the reason for that is. For example, in section 8(3) of the Bill an intermediary service provider of which I understand there are two in Gibraltar is not required to monitor communications using the service to discover whether any communication may give rise to civil or criminal liability. The intermediary service provider shall, however, comply with any directions given by the Minister or the Courts and with its contractual obligations in respect of any communications using the service. The directive mentions the administrative authorities or Courts and that is one example. There is another area where the procedure for dealing with unlawful or defamatory information which may be posted on the internet or which may be available for people to access and the removal of that information, that is to say where the intermediary service provider of which there are two in Gibraltar under section 9(b) of the Ordinance is required to notify the Minister of the relevant facts and if he knows it the identity of the person for whom he was supplying services in respect of this information. Mr Speaker, the Isle of Man Act on



which part of the Gibraltar Bill is based according to the information circulated in May, refers to a responsible authority and perhaps it is relevant to wonder why the person should not go to notify the Police instead of notifying the Minister in the light of civil or criminal activity.

The question of the codes of conduct is something which we have already gone into but in Article 19 of the E-Commerce Directive there is reference to co-operation between different European Union Member States and jurisdictions and it says that the Member State shall co-operate with other Member States and shall to that end appoint one or several contact points whose details he shall communicate to the other Member States and to the Commission. There is certainly to our knowledge, having looked at the Bill, no appointment of any contact point for Gibraltar in relation to the requirement of Article 19 of the European Union Directive. That is another area where we would welcome clarification from the Minister and an explanation as to why that should be the case.

Moving to the Electronic Signatures Directive, Mr Speaker, the approval for accreditation certificates of the people who wish the certificate which the Minister very rightly pointed out in his address, is something which is peculiar to the law here but it is not to the European Union Directive. It is something which the Isle of Man requires, registration of these CSPs but certainly it is not a requirement of the directive and the Isle of Man is not in the European Union. In relation to that for the purpose of clarification it is in section 10 of the preamble which mentions that certification service providers should be free to provide their services without prior authorisation. Prior authorisation, it says, means not only any permission whereby the certification service provider concerned has to obtain a decision by national authorities before being allowed to provide a certification service but also any other measure having the same effect. One is the question of approval and permission and the other is the question of the accreditation schemes which according to the directive should also be voluntary. For example, there are other areas where people think that there may be some criminal activity and can report that to the

police. One such is in section 16(2) but there are others where instead of mentioning the police it mentions the Minister and we are just wondering whether the Minister could clarify that position.

There is also, in Article 11 of the directive, a requirement to notify the European Commission as to the voluntary or accreditation schemes which are set up with names and addresses of the bodies responsible for accrediting them and the names and addresses of all the certificate providers et cetera. All that section is something which we do not see reflected. The European Union elements of the directive we do not see reflected in the Bill before the House today.

There is also a requirement, when they issue certificates and we note that the directive makes a distinction between qualified certificates, when they issue the qualified certificates one of the key elements in it is that the certificate must contain the name of the state in which the certification issuer is established. It would be relevant to us to know, given that we are transposing this European Union law what that particular state will be and what the reference in the certificate issued will be.

Mr Speaker, there is in the Order Paper an amendment to this, but I leave that until the Minister introduces the amendment in Committee Stage. Those are the areas in which we would like clarification and we would welcome the reasons why the Government have decided to transpose these two directives in that particular way.

HON K AZOPARDI:

Mr Speaker, a whole variety of points there. I will try to deal with all of them. I can certainly confirm to the hon Member that the intention is to transpose those two directives - the Electronic Commerce Directive and the Electronic Signatures. I am not sure if the hon Member wants confirmation or he took my Second Reading speech as confirmation, but if he wanted it there it is for what it is worth.

HON DR J J GARCIA:

Would the Minister give way? The point was that the directives mentioned that if one is in effect transposing a directive in the law and the law actually does not mention that.....

HON K AZOPARDI:

Mr Speaker, I am not sure if the Legislation Support Unit either spotted that or take the view that it is necessary. The fact of the matter is we seek to transpose the directives here by virtue of the broad Bill that we have put forward. The point is also that the hon Member needs to be aware of the context of this transposition and of this Bill. When we were re-elected and I was assigned to this post in February last year and I arrived into office there had already been substantial work done of the drafting of E-Commerce legislation. At the time there was no directive drafted or agreed by the European Commission and the legislation that had been drafted by my predecessor with the LSU was essentially based on Bermuda, the Isle of Man and other models that they had sought to find around the world. There was general agreement, though, that if a European model was agreed then clearly we should fall under that umbrella rather than other legislation clearly because our EU membership would require us to comply with those key principles once they were agreed by the European Commission. That came in June when the legislation was fairly advanced but it gave us an opportunity to review both structure and content of that. Hon Members will also have to take into account that this is not an area, given that there has been approval of the directive by the Commission in June and Member States were given until the 1<sup>st</sup> January 2002 to transpose this framework into national legislation, that there are not many models floating about neither is this a tried and tested area of law and, quite clearly, we could either take the view of waiting and seeing what models would emerge around Europe or take the view that we take the plunge and in the full expectation that the Courts in the UK, Ireland or Gibraltar will construe provisions in different forms and that amendments will be required in due course to this legislation but we do not want to lose the possibility

of business coming to Gibraltar so we take the plunge in the full expectation that at some stage I assume that amendments will be required to this legislation. But it is important for us to act vigorously so that we do not lose business. For example, the UK has not, to my knowledge, passed legislation in this field. I am aware that it has issued a Consultative Paper on the directive but I am not aware that they have actually taken legislation or enacted it yet. It is in that general context that the hon Member should read this Bill. It is a Bill that has gone through consultative process in Gibraltar, where the general feeling of the industry is positive. The industry is saying to the Government "take it forward even if there are holes in the legislation, take it forward because it is important for us to attract business to Gibraltar". In the context, as I say to the hon Member that I expect at some stage to have to come back with amending legislation if there are any gaps. If there are gaps that are identified that we can deal with today I am happy to do so in that context.

I will also make the point generally that the way that the legislation drafters took the directive is that it provides a framework of general standards and principles that need to be incorporated into national legislation but they advise me in many circumstances they are indicators that they do not provide a specific answer and that the Legislation Support Unit had to draft provisions around a general principle without, in many cases, the assistance of having a specific English or Irish model that they could say had already transposed and complied with these circumstances. What they therefore did was see if there were pieces of legislation around the world, we were already using Bermuda, Isle of Man and others to see whether sections that had been drafted around the world and were already in place were in consonance with certain principles and if they were in consonance with those European principles would they suffice for us in Gibraltar.

In relation to the specific point that the hon Member makes, as to codes of conduct, I am not sure that I agree with him that we are trying to do something different to what is provided under the directive. If the hon Member wants at Committee Stage to clarify specifically why he thinks so I would be happy to look at that but

our intention generally was to reflect the provision in Article 16 in this Bill, in both sections 10 and 18. It is not compulsory on the Minister to approve codes of conduct but it really gives towards encouraging essentially the representative organisations to get together, draft codes of conduct and submit them to the Government for approval. We thought that was the thrust of Article 16. If there is any specific aspect where the hon Member feels the Bill can be improved on I would be happy to look at it at Committee Stage. For background, I would say that through the think tank that I convened I have already set up a sub-committee made up of the Federation of Small Businesses, the Chamber of Commerce, the Legislation Unit and the DTI, to see whether we can progress by agreement, some codes of conduct that can be presented eventually and adopted by the industry and the Government essentially by mutual consensus.

Mr Speaker, the hon Member says that there is not a provision that deals with co-operation to reflect Article 19. I think the hon Member is correct in that. If he has a suggestion or a specific amendment to make at Committee Stage I would be happy to consider that to see if we can proceed by agreement on that matter. In relation to Article 14 as to administrative authority or where the powers are vested for notification of crime, the view is taken by those who drafted this legislation that we should vest the powers in the Minister because the directive gives an option of court of administrative authority and it was felt that the Government was a sufficient authority to receive notification and clearly if it gives rise to criminal liability the Minister will pass it on to the Attorney-General for action. There is not going to be an issue there. The point was not precisely, in my view, who should receive it but rather to have a mechanism by which we can crack down on cyber crime. That is the whole point. Indeed I have written to the Attorney-General about this matter the other day because the hon Member will have seen in the BBC Panorama programme on cracking down on child pornography rings which actually is specifically an area where the Government feel quite strongly there should be power vested in the Government to be able to direct, if they receive information, ISPs or any other service provider that is being used as an unwilling channel for this

type of information to remove it in the public interest. I am sure the hon Member will share that concern.

HON DR J J GARCIA:

The point we are trying to establish is, would it not perhaps make more sense for the ISP to report illegal activity to the Police rather than to report it to the Minister?

HON K AZOPARDI:

Yes but the whole point was 'administrative authority' is not defined. This is not only reporting criminal liability, it is about civil liability as well. One has to look at that context of the Bill where it will have hopefully approved Codes of Conduct generally for the industry once this sub-committee gets working and agrees something. We thought that it would be more convenient to deal with this matter that way. We will set up internal processes so that we ensure that if we receive criminal liability they will go to the ultimate venue which is the Attorney-General's Chambers. That was the essence and spirit of the rule. There is nothing I hope that should concern the hon Member.

On accreditation certificates, Mr Speaker, I understood the hon Member to say that he was not sure why we needed to register them. That was the interpretation that the Legislation Unit placed on Article 3(1) of the directive. In Article 3(1) it talks about the provision of certification services not being available subject to prior authorisation. That, together with the rest of the provisions, was interpreted.....

HON DR J J GARCIA:

Would the hon Member give way? What Article 1 actually says is "that Member States shall not make the provision of certification services subject to prior authorisation." It seems to us that is exactly what we are doing in this Bill.

HON K AZOPARDI:

Where is the hon Member reading from?

HON DR J J GARCIA:

Directive 1999/93, Article 3(1), Market Access.

HON K AZOPARDI:

I will have to clarify that with the LSU but the view they took of the transposition methodology is that there should be some mechanism for registration but that that did not infringe this provision. If the hon Member is not satisfied with that perhaps it can be clarified later. I will take a note of that and I shall clarify that for him which is the outstanding point on this.

On notification, Article 11 does not need to be provided for in this Bill and rather it would seem that administrative notification of transposition that would take place in the normal course of things I think other directives provide for that as well. There is no need to say specifically in ones national legislation how that is dealt with. The issue of the form that the certificates will take and what will be the name of the issuing party, that is not something that we have directed too much thinking to at the moment. We have been trying to concentrate on getting this Bill through. It may be that it forms part of the Codes of Conduct. Certainly, internally, once the Bill is through we should give some thought to that and obviously we will be conscious of the need to protect separate identity et cetera. I hope that deals with all those points, Mr Speaker.

HON J J BOSSANO:

When the Minister told us that this was implementing the EU Directive he indicated that failure to refer to implementation might be the result of the ELU interpreting these directives differently in the sense that they were sort of frameworks or guidelines as opposed to what we are used to. In fact, the provisions in the

directive on implementation say that when the Member States adopt the measures they shall contain a reference to this directive or shall be accompanied by such a reference on the occasion of their official publication. That is precisely the identical words that we find in the final article in every other directive that we have implemented. The normal thing has been that the Bill for an Ordinance brought to the House should actually identify the directive by number and that we should then be given a copy of that directive so that we can see the transposition taking place. Therefore, if we look at the Bill on pollution before this House, it says to implement in Gibraltar the provisions of directive 96/61 but we would have expected a similar provision in this law. This is why we question it. We realise that the deadline has not been reached. In one case it is July 2001 and in the other case it is 2002. It is not that failure to implement at this stage means anything because there is nothing to stop whatever is not implemented now being implemented later. But we got the impression from the original statement that the Government's view was that this was giving effect to these directives and we would like to know whether this is an omission or a change of approach because, frankly, it is important to know before we come to the House whether it is local legislation which is Gibraltar Government policy or an EU obligation which we are giving effect to.

HON K AZOPARDI:

Mr Speaker, I do not have a copy of the original Bill but because of the description I gave the hon Members about how this thing started and how legislation was drafted prior to the directive being agreed, that the Explanatory Memorandum obviously had to be replaced and dropped out because once the redrafting process started, once the Commission Directive was agreed..... I agree that that provision is in the directive and I think the difference is that of all the Bills we have taken to the House this is the only one that does not have an Explanatory Memorandum. Obviously it is an omission. I do not think there is anything deliberate because the whole point of the Article 13 reference to Member States when they officially publish something they should say that they

are going to transpose European legislation is for public information. No one, surely, can have failed to notice that the Government have been for now some months saying that they intended to put in place legislation on e-Commerce which will specifically transpose also the European Directive. We have said so several times. I think the general spirit of this has been met, if we have not said it before. It was certainly said also in the consultative document that we issued that we intended to transpose that and that on electronic signatures. I think the public information point has been met though of course technically the hon Member is correct that on official publication of the Green Paper it did not carry a reference but that, together with the public information we have issued previously and the public information we have issued throughout the consultative process and today I think surely clarifies for everyone in Gibraltar what the position is.

HON DR J J GARCIA:

Mr Speaker, there is one point which I mentioned which I do not think has been covered and that relates to the question of the framework of data protection and privacy covered by other European Union Directives of which these two are expected to form a part. According to the preamble to this directive this framework is already established in the field of data protection and therefore it is not necessary to cover it in these two. What is the position in Gibraltar in relation to that?

HON K AZOPARDI:

The position there is that there were some comments received during the consultative process that made that point, is this Bill going to guarantee, for example, privacy of e-mail? The answer is, it is not in this Bill. The intention of Government when they received those comments at the consultative process was to, through the Legislation Unit, make the appropriate alterations to data protection legislation that is under preparation specifically in relation to telecommunications so that we can provide for privacy of electronic communications at that point. It is obviously a matter of some debate to what degree privacy should be affected in

relation to electronic communications. The United Kingdom have enacted their Regulatory Investigative Powers Bill, a so-called RIP legislation. I am not sure it means RIP because it is going to kill e-Commerce in the United Kingdom, it may be the case, that is the view that some people take certainly. The view of the Government here is that obviously we can safeguard privacy as much as possible within the limits of the law as long as no illegal activity is being contemplated. But certainly the thrust of the privacy comments, the data protection comments, that were put through to the Government by entities and individuals at consultative stage were passed through on the basis that we indicated that we accepted that we needed to provide written legislation but that the proper time for it was in the data protection legislation which we hope to present to the House in due course.

Question put. Agreed to.

The Bill was read a second time.

HON K AZOPARDI:

I beg to give notice that the Committee Stage and Third Reading of the Bill be taken today.

Question put. Agreed to.

**THE SOCIAL SECURITY (CLOSED LONG-TERM BENEFITS AND SCHEME) ORDINANCE 1996 (AMENDMENT) ORDINANCE 2000.**

HON MRS Y DEL AGUA:

I have the honour to move that a Bill for an Ordinance to amend the Social Security (Closed Long-Term Benefits and Scheme) Ordinance 1996, be read a first time.

Question put. Agreed to.

## SECOND READING

HON MRS Y DEL AGUA:

I have the honour to move that the Bill be now read a second time. Mr Speaker, on the 5<sup>th</sup> January 1998 the Social Security (Closed Long-Term Benefits and Scheme) Ordinance was amended to provide a further opportunity to pay arrears of social insurance contributions to those persons who were eligible to pay arrears on the 5<sup>th</sup> January 1975 but did not elect to do so at the time. The closing date for the payment of these arrears was the 5<sup>th</sup> April 1998. In order to accommodate several persons who submitted their applications after this date, the Ordinance was subsequently amended to extend the closing date until the 31<sup>st</sup> August 1998. There are still some people who, for various reasons, missed the second chance to pay the arrears in 1998 and the purpose of this Bill is simply to provide yet another opportunity to this group of people. It should be noted that this selection will apply to all those persons who have an incomplete contribution record in respect of periods of actual employment in Gibraltar at a time that they were exempted or prohibited by law from contributing to the Social Insurance Pension Scheme either because they earned more than £500 earning ceiling or because they were self-employed. As in 1998 this option will also be extended to the widows and widowers of any insured person who was eligible on the 6<sup>th</sup> January 1975 but is now deceased and for those persons who at the time may have opted to pay arrears by instalments but were unable to complete all the payments.

Mr Speaker, in view of the lapse of time since the publication of the Bill, I beg to give notice that I will be moving amendments to the Bill at Committee Stage to replace in the title the year 2000 with the year 2001 and extend the time limit in which such an election can be made until the 30<sup>th</sup> June 2001. I commend the Bill to the House.

Discussion invited on the general principles and merits of the Bill.

HON J L BALDACHINO:

Speaking on the general principles and merits of the Bill, I am grateful that the Minister has just said that there will be an extension to the time that persons may apply because to us it appeared to be too short a period from passing the Bill to the closing date. I do not know the number of people that may be affected by not contributing before for various reasons but I think that the time limit was a bit short and I am grateful that the Minister at this stage has given an extension. Nevertheless, Mr Speaker, there are other arguments which have been put in this House before by the late hon Colleague Robert Mor and I will have to go into that one as well because the Minister has not mentioned that and that is that he used to raise in this House that there should be a change of the date of the 6<sup>th</sup> January 1975. At the time, Government said that this could carry a risk of challenge from outside Gibraltar but they did not rule out the decision that in the future they could actually be looking at the date and obviously they would need legal advice on this. Seeing that the Minister is still keeping to the original date one of the arguments was that they kept to the 1975 date because prior to all the Bills being passed that was the date and therefore having not received a challenge there they needed legal advice if it was possible to move from the 1975 dates. We believe there is no such risk if the Government were to move from that date. Nevertheless, seeing that they have not moved we are enquiring whether the Government have had legal advice and, if so, what was the advice that they have had for moving from the 1975 date. If no such advice has been sought what is the reason that the Government give for not moving from the 1975 date?

HON CHIEF MINISTER:

On the question of extending the time to 30<sup>th</sup> June has been explained by the Minister for Social Affairs in her own address, although I am not sure that it is actually necessary to do so this is not a question of trawling now as most of the cases are waiting to be processed and these are people that have approached the Department since the last closing date and they have been told

"sorry, it is too late, you missed the window." So theoretically the window will only need to be reopened for one day to allow them to be let in. There may be others that emerge when publicity is given to this but in principle the people for whose benefit this is being done are probably already identified and their applications are already in the Department and it is just a question of facilitating it. There is no reason why it should not be opened for three months as indeed was the intention when this Bill was published in November we had hoped to take it sooner and the Bill contained the date 31<sup>st</sup> March. The Government always intended that there would be a period of time even if it was not necessary.

The purpose of this Bill is to give a further opportunity to the people who have already had it. For that reason the Government will not support any amendment that the Opposition may wish to bring to alter the date of the 6<sup>th</sup> January 1975. That date has been chosen for reasons which the Government continue to believe is important to maintain and therefore the question that the hon Member raises does not arise on the consideration of the Government's Bill which is intended to give a further opportunity to the same category of persons that have had them once before and twice since this Government have been in office.

HON J J BOSSANO:

Effectively, what we are being told is that the group that was given the opportunity on the first occasion is the same group that was given the opportunity on the other occasions and it is not an amendment to enlarge the group of eligible persons but simply more opportunities for those who missed the boat each time. But of course when we first raised the question of the group the Government could not give us a clear explanation for the selection of the date except that there appeared to be historical reasons for it and possibly that the reluctance to move away from that date might be an indication of a suspicion, a fear, that moving away from the date might open an unwelcome door. But they agreed to look into it and this was something that they agreed to do the first time round. They said that they were not sure. We

accepted that we were not asking them to open doors that we do not want opened but of course quite a long time has gone by since that indication was given that the matter would be looked into and consequently what my hon Colleague was asking in his original contribution was have we now got a feedback to say we are sticking to the original position because the matter has been investigated fully and we have come to the conclusion that there are dangers or obstacles or problems which we were not able to say what they were the first time. But there is no evidence of that and therefore we are not going to be moving an amendment but obviously on every occasion that they keep on bringing windows we will keep on raising the point in the hope of being able to persuade them.

Question put. Agreed to.

The Bill was read a second time.

HON MRS Y DEL AGUA:

I beg to give notice that the Committee Stage and Third Reading of the Bill be taken later today.

Question put. Agreed to.

House recessed at 12.30pm.

House resumed at 12.35pm.

#### COMMITTEE STAGE

HON ATTORNEY-GENERAL:

I have the honour to move that the House should resolve itself into Committee to consider the following Bills clause by clause:

- (1) The Piracy Act 1837 (Amendment) Bill 2001.
- (2) The Social Security (Miscellaneous Provisions) Bill 2001.
- (3) The Social Security (Insurance) Ordinance (Amendment)(No.2) Bill 1999.
- (4) The Legal Aid and Assistance Ordinance (Amendment) Bill 2001.
- (5) The Companies (Execution of Documents by Foreign Companies) Bill 2000.
- (6) The Companies (Amendment) Bill 2000.
- (7) The Electronic Commerce Bill 2000.
- (8) The Social Security (Closed Long-Term Benefits and Scheme) Ordinance 1996 (Amendment) Bill 2000.

#### **THE PIRACY ACT 1837 (AMENDMENT) BILL 2001**

Clauses 1 and 2 and the Long Title were agreed to and stood part of the Bill.

#### **THE SOCIAL SECURITY (MISCELLANEOUS PROVISIONS) BILL 2001**

Clause 1 was agreed to and stood part of the Bill.

Clause 2

HON CHIEF MINISTER:

Mr Chairman, I beg to move an amendment as I indicated during the Second Reading. The amendment is that clause 2(6)(h) be deleted. That Section 51(4) be removed from the list of sections in the principal Ordinance in which the reference to "Governor" is going to be changed to a reference to "Minister". That means that existing (i) becomes (h) and existing (j) becomes (i). The substantive amendment is that a new clause 2(6)(a) be inserted in the Bill to read as follows:

"Section 51(4) be amended by substituting for the word 'Governor' the words 'Financial and Development Secretary'".

The effect of that will be that in respect of this fund the position will be as in the case of all other funds including the Pensions Fund, the Open and Closed Fund, which is that they are under the control of the Financial and Development Secretary.

I should just add, Mr Chairman, that the substance of the section that we are now dealing with is responsibility for investment decisions in the fund. Section 51(4) reads as follows:

"Any monies standing to the credit of the fund may from time to time be invested in accordance with such directions as may be given by the Governor".

That currently reads "Minister", without my amendment. With my amendment it would read:

"Any monies standing to the credit of the fund may from time to time be invested in accordance with such directions as may be given by the Financial and Development Secretary".

The Government do not believe that Ministers should issue directions in relation to the investment of the fund, that that should be done by the Financial and Development Secretary and that it was an unintended consequence and that is the need for the amendment. I commend the amendment to the House.

Clause 2, as amended, was agreed to and stood part of the Bill.

Clauses 3 to 5 and the Long Title were agreed to and stood part of the Bill.



**THE SOCIAL SECURITY (INSURANCE) ORDINANCE  
(AMENDMENT) (No 2) BILL 1999**

Clause 1

HON CHIEF MINISTER:

I wish to move a minor amendment to Clause 1, Mr Chairman, and that is that because of the delay in considering the Bill since its application, in the citation in Clause 1 that should read "this Ordinance may be cited as the Social Security (Insurance) Ordinance (Amendment) Ordinance 2001". Of course now in 2001 it is not "(No.2)", it is only No.2 because in the previous one it was in 2000. Now in 2001 we can also drop the "(No.2)" reference.

Clause 1, as amended, stood part of the Bill.

Clause 2

HON CHIEF MINISTER:

I have got some information just to clarify some of the things that I said to the Leader of the Opposition when we debated the previous Bill, the Social Security (Miscellaneous Provisions) Ordinance. I can confirm to him that "contributions" is intended to mean the quantum of the contribution not the number of contributions. That is provided for as the hon Member knows, in the principal Ordinance itself. I should add that stamps can still be purchased in the Post Office, but in respect of the 2000 year and contrary to what I told him, the Income Tax Department is indeed already collecting cash and has been since the end of January. Apparently, the view has been taken that the current law does not prevent cash being accepted instead of stamps. I cannot answer for that assessment, it is new to me but on that basis cash has been accepted since January.

Clause 2 and the Long Title.

Question put. The House voted:

For the Ayes:           The Hon K Azopardi  
                              The Hon Lt-Col E M Britto  
                              The Hon P R Caruana  
                              The Hon H Corby  
                              The Hon Mrs Y Del Agua  
                              The Hon J J Holliday  
                              The Hon Dr B A Linares  
                              The Hon J J Netto  
                              The Hon R R Rhoda  
                              The Hon T J Bristow

For the Noes:           The Hon J L Baldachino  
                              The Hon J J Bossano  
                              The Hon Dr J J Garcia  
                              The Hon S E Linares

                              The Hon Miss M I Montegriffo  
                              The Hon P C Jerez  
                              The Hon Dr R G Valarino

Clause 2 and the Long Title stood part of the Bill.

**THE LEGAL AID AND ASSISTANCE ORDINANCE  
(AMENDMENT) BILL 2001**

Clauses 1 and 2 and the Long Title were agreed to and stood part of the Bill.

**THE COMPANIES (EXECUTION OF DOCUMENTS BY FOREIGN COMPANIES) BILL 2000**

Clause 1

HON K AZOPARDI:

Mr Chairman, I wish to move an amendment to the effect that in the Title the figure "2000" should be deleted and the figure "2001" inserted in its place.

Clause 1, as amended, was agreed to and stood part of the Bill

Clause 2 and the Long Title were agreed to and stood part of the Bill.

**THE COMPANIES (AMENDMENT) BILL 2000**

Clause 1

HON K AZOPARDI:

Mr Chairman, I move the same amendment as previously, that is, that the figure "2000" be deleted and the figure "2001" be inserted in its place.

Clause 1, as amended, was agreed to and stood part of the Bill.

Clause 2

HON J J BOSSANO:

Mr Chairman, on this question of the provisions in 267A, in the way that it is drafted it talks about the ability to take off the register a company that has failed to make a Return since the 1<sup>st</sup> January 1993. Is that date an indefinite date? It is not that it is linked to now and it is eight years backwards?

HON K AZOPARDI:

As I explained earlier this is a cut-off date because of Companies House (Gibraltar) Ltd taking over the administration of Companies House. Therefore, that will be left like that. We will take the simpler procedure from 1<sup>st</sup> January 1993 onwards.

HON J J BOSSANO:

So effectively what is going to be done is an exercise going back to the 1<sup>st</sup> January 1993 including in respect of years before that?

HON K AZOPARDI:

Yes.

HON J J BOSSANO:

As I understood it, we are talking about Returns prior to the 1<sup>st</sup> January 1993 and we got the impression that we were talking in the Bill about Returns having to be made since 1<sup>st</sup> January 1993. Is it one or is it the other?

HON K AZOPARDI:

Mr Chairman, the way it is drafted, it will apply to all companies irrespective of date of incorporation that have since 1<sup>st</sup> January 1993 not filed Annual Returns. That is the way it is drafted. The way that Companies House intend to approach this, I understand, is to first deal with the batch of companies from 1929 to 1993. This also provides the mechanism for the companies from 1993 onwards given that it is drafted as to make it irrelevant what the date of incorporation is. What is relevant is the point at which they have failed to file Annual Returns. Mr Chairman I wish to also move an amendment as follows: Insert the figure "2" at the beginning of the sentence commencing "The Companies Ordinance is ....."

HON J J BOSSANO:

Can I ask a specific question, Mr Chairman. Will the law permit or not permit the application of the new provisions to somebody that has made a return on the 2<sup>nd</sup> January 1993?

HON CHIEF MINISTER:

It will not. If a company has filed just one Annual Return after the 1<sup>st</sup> January 1993 this mechanism will not be available against them. It is only in respect of companies that have not made a Return since the 1<sup>st</sup> January 1993. If a company has put in one Return after the 1<sup>st</sup> January 1993 then only the old procedure will be available against them. But if a company has not put in a Return since the 1<sup>st</sup> January 1993 both procedures are available against them and I imagine that Companies House will opt for this new one.

HON J J BOSSANO:

So effectively this is only applicable to companies that have been dormant for eight years?

HON CHIEF MINISTER:

One of the defects of the existing regime is that dormancy and compliance with filing requirements are not necessarily synonymous. The fact that a company is not filing Annual Returns as it must does not mean that it is inactive. Indeed, that is one of the reasons why the existing regime does not facilitate a clear-out because a company could own an asset somewhere and yet not be filing its Annual Returns in Gibraltar. The hon Member is right. The intention is to strike off companies that are dross, that are simply cluttering up the Register, that they are dormant, that they are inactive, they are no longer functional. But of course there is a procedure. The hon Member should be aware that the consequence of being struck off by either the new or the old procedure, for that matter, is that any assets that the company may have becomes the property of the Crown. Then

there is a provision in the Ordinance that allows the company to make an application later to the Supreme Court for the company to be restored to the Register.

Clause 2, as amended, was agreed to and stood part of the Bill.

The Long Title was agreed to and stood part of the Bill.

## THE ELECTRONIC COMMERCE BILL 2000

### Clause 1

HON K AZOPARDI:

Mr Chairman, I move that the figure "2000" appearing in the Heading be deleted and substituted by the figure "2001".

Clause 1, as amended, was agreed to and stood part of the Bill.

### Clauses 2 to 10

HON DR J J GARCIA:

On discussing with the Chief Minister the question of the contact points he suggested that the Government would support an amendment from Opposition Members on that question. We were proposing to insert at the end of part 1 of the Bill a new Clause 10A with the subsequent renumbering that would follow which would be along the lines of "The contact point for the purposes of Article 19 of EU Directive 2000/31/EC shall be the E-Com Unit, Department of Trade and Industry, Europort, Gibraltar."

HON CHIEF MINISTER:

Mr Chairman, I would be grateful if the hon Member could clarify why it is important to do this by legislation. The designation of a Competent Authority for this purpose does not have to be in the Bill.

HON DR J J GARCIA:

There are two reasons for that. Firstly, because it is in the actual directive and secondly because it was discussed by the Minister and myself and we felt it was the best way to proceed.

HON CHIEF MINISTER:

I think that what the Minister agreed to was to consider any amendment that the hon Member might put in. I do not think he agreed to whatever amendment the hon Member might produce without having seen it. Government will not have any difficulty with the language of a particular amendment if we can agree but there are many many instances, the hon Member should be aware, when the way a directive is implemented, the implementation provisions in a directive are very frequently not contained in the piece of legislation that actually gives it legislative effect. It happens quite a lot but that said if the hon Member would pass the amendment?

Mr Chairman, the Government can go along with an amendment to the amendment even though I have to say that we consider the whole thing to be unnecessary. The Government frequently designate at an administrative level Competent Authorities or contact points for the purposes of European Union Directives which are not and do not have to be spelt out in the legislation. In our judgement it is unnecessary. I would not wish to specify the E-Com Unit because the E-Com Unit is something that may or may not exist in due course so it will have to be the Department of Trade and Industry. Even then, the names of Departments change from time to time and I would prefer to find some defined name. It could just simply be the 'Minister' for example on the

basis that the function will be discharged by somebody for whom the Minister is responsible. I think the way that this should read is "the Minister or such other person as may be designated by him" which gives the flexibility that I think is required whilst at the same time accommodating the hon Member's apparent desire to have this provided for in the legislation. Unless the hon Member is willing to adopt it as his own amendment, with which I would be quite happy, I would propose an amendment to his amendment so that his amendment would read "The contact point for the purposes of Article 19 of EU Directive 2000/31/EC shall be the Minister or such other person as he may designate".

HON DR J J GARCIA:

I will accept it as my own and propose the amendment if that is the procedure.

Clauses 2 to 10 were agreed to and stood part of the Bill.

New Clause 10A was agreed to and stood part of the Bill.

Clauses 11 to 18

HON KAZOPARDI:

We have looked at the point that the hon Member was raising before. He is quite right that Article 3(1) says "shall not make the provision of certification services subject to prior authorisation". It also then says in Article 3(4) that one can make those same certification services providers subject to supervision and I think there has been some confusion in the drafting because quite clearly if one looks at section 12(4) it says nothing in this section requires a certification service provider to obtain approval but, of course, the language of section 12(1) to 12(3) can be language of the rest of the provisions, it talks about approval. Of course, it runs counter to that concept but I think it can be dealt with because there is a mechanism for supervision and a very lengthy criteria against which certification service providers can be adhered to in the directive.

HON CHIEF MINISTER:

Mr Chairman, Government are advised by the Draftsman that there is no need to amend this part. The legislation does not make it compulsory. It is not compulsory for a certification service provider to obtain approval. That is the effect of sub-section (4) of Clause 12(1) which says that "nothing in this section requires a certification service provider to obtain approval." Section 12(1) says "on an application by a service provider....." but it is not compulsory to submit an application. It is entirely a voluntary regime rather like, the hon Members may remember, when this House passed legislation enabling one to register a Trust. It did not make it compulsory to register a Trust but some people wanted to register Trusts so that they could then go off and say "I have a registered Trust". This is exactly the same regime and sub-section (4) is intended to and we are advised achieves the objective of making it perfectly clear beyond doubt that the regime of section 12 creates no compulsion for approval. It is just for those who want it.

Clauses 11 to 18 were agreed to and stood part of the Bill.

Clauses 19 to 25 were agreed to and stood part of the Bill.

Clause 26

HON K AZOPARDI:

I have given notice of a small amendment to insert in section 26(1) after the words "to remove information" the words "(including for the avoidance of doubt a domain name)".

HON DR J J GARCIA:

There is one point which perhaps the Minister could clarify and that is to say the amendment to 26(1) mentions that the Minister may by notice in writing to a service provider require the service provider to remove information including for the avoidance of doubt a domain name from any system. A service provider, Mr

Chairman, by the definition of the Bill appears to be somebody who is not providing those services from Gibraltar because it is another one which is an established service provider which is the person who provides the services..... in the definition there is also a service provider that seems to do something else. Perhaps the Minister could clarify that.

HON K AZOPARDI:

It is meant to be as wide as possible that is why we have used the widest possible definition of service provider because when we came to look at it we considered.....this is meant to tackle the situation where, for example, one might have a pornographic name in a domain name and so we needed to cast the widest net possible. If they are using Gibraltar as a channel we ought to have the power to be able to say no to that.

HON DR J J GARCIA:

Is this to establish that in the definition there would be people who would use Gibraltar as a channel which actually is not what the definition of service provider says.

HON K AZOPARDI:

I use the language loosely. What I am saying to the hon Member is I agree with him there are three definitions of service providers. This is the widest definition. It is deliberate. It is meant to be the widest.

Clause 26, as amended, was agreed to and stood part of the Bill.

Clauses 27 and 28 and the Long Title were agreed to and stood part of the Bill.

**THE SOCIAL SECURITY (CLOSED LONG-TERM BENEFITS AND SCHEME) ORDINANCE 1996 (AMENDMENT) BILL 2000**

Clause 1

HON MRS Y DEL AGUA

Mr Chairman, having given notice during the Second Reading I would like to move the following amendment:

In the Title replace the year "2000" with the year "2001".

Clause 1, as amended, was agreed to and stood part of the Bill.

Clause 2

The second amendment I would like to move is to substitute "31<sup>st</sup> March 2001" with "30<sup>th</sup> June 2001" wherever this appears.

Clause 2, as amended, was agreed to and stood part of the Bill.

The Long Title was agreed to and stood part of the Bill.

THIRD READING

HON ATTORNEY-GENERAL:

I have the honour to report that the Piracy Act 1837 (Amendment) Bill 2001; the Social Security (Miscellaneous Provisions) Bill 2001, with amendments; the Social Security (Insurance) Ordinance (Amendment) (No.2) Bill 1999, with amendments; the Legal Aid and Assistance Ordinance (Amendment) Bill 2001; the Companies (Execution of Documents by Foreign Companies) Bill 2000, with amendments; the Companies (Amendment) Bill 2000, with amendments; the Electronic Commerce Bill 2000, with amendments; and the Social Security (Closed Long-Term Benefits and Scheme) Ordinance 1996 (Amendment) Bill 2000, with amendments, have been considered in Committee and agreed to and I now move that they be read a third time and passed.

Question put.

The Piracy Act 1837 (Amendment) Bill 2001; the Social Security (Miscellaneous Provisions) Bill 2001; the Legal Aid and Assistance Ordinance (Amendment) Bill 2001; the Companies (Execution of Documents by Foreign Companies) Bill 2000; the Companies (Amendment) Bill 2000; the Electronic Commerce Bill 2000; and the Social Security (Closed Long-Term Benefits and Scheme) Ordinance 1996 (Amendment) Bill 2000, were agreed to and read a third time and passed.

The Social Security (Insurance) Ordinance (Amendment) (No.2) Bill 1999.

The House voted:

For the Ayes:           The Hon K Azzopardi  
                                  The Hon Lt-Col E M Britto  
                                  The Hon P R Caruana  
                                  The Hon H Corby  
                                  The Hon Mrs Y Del Agua  
                                  The Hon J J Holliday  
                                  The Hon Dr B A Linares  
                                  The Hon J J Netto  
                                  The Hon R R Rhoda  
                                  The Hon T J Bristow

For the Noes:           The Hon J L Baldachino  
                                  The Hon J J Bossano  
                                  The Hon Dr J J Garcia  
                                  The Hon S E Linares  
                                  The Hon Miss M I Montegriffo  
                                  The Hon J C Perez  
                                  The Hon Dr R G Valarino

The Bill was read a third time and passed.

## ADJOURNMENT

The Hon the Chief Minister moved the adjournment of the House to Monday 26<sup>th</sup> March 2001 at 10.00 am.

Question put. Agreed to.

The adjournment of the House was taken at 1.25 pm on Monday 5<sup>th</sup> March 2001.

### Monday 26<sup>th</sup> March 2001

The House resumed at 10.05am.

#### PRESENT:

Mr Speaker.....(In the Chair)  
(The Hon Judge J E Alcantara CBE)

#### GOVERNMENT:

The Hon P R Caruana QC - Chief Minister  
The Hon K Azopardi - Minister for Trade, Industry and Telecommunications  
The Hon Dr B A Linares - Minister for Education, Training, Culture and Health  
The Hon Lt-Col E M Britto OBE, ED - Minister for Public Services, the Environment, Sport and Youth  
The Hon H A Corby - Minister for Employment and Consumer Affairs  
The Hon J J Netto - Minister for Housing  
The Hon Mrs Y Del Agua - Minister for Social Affairs  
The Hon A A Trinidad - Attorney-General (Ag.)  
The Hon T J Bristow - Financial and Development Secretary

#### OPPOSITION:

The Hon J J Bossano - Leader of the Opposition  
The Hon Dr J J Garcia  
The Hon J L Baldachino  
The Hon Miss M I Montegriffo  
The Hon Dr R G Valarino  
The Hon J C Perez  
The Hon S E Linares

#### ABSENT:

The Hon J J Holliday - Minister for Tourism and Transport

#### IN ATTENDANCE:

D J Reyes Esq ED - Clerk of the House of Assembly

#### DOCUMENTS LAID

The Hon the Chief Minister moved under Standing Order 7(3) to suspend Standing Order 7(1) in order to proceed with the laying of documents on the Table.

Question put. Agreed to.

The Hon the Chief Minister laid on the Table the Annual Report and Accounts of the Gibraltar Joinery and Building Services Ltd for the year ended 31<sup>st</sup> December 1999.

Ordered to lie.

The Hon the Financial and Development Secretary laid on the Table the following accounts and statements:

- (1) The Gibraltar Heritage Trust Accounts for the year ended 31<sup>st</sup> March 2000.
- (2) Statement of Supplementary Estimates No.1 of 2000/2001.
- (3) Statement of Consolidated Fund Reallocations approved by the Financial and Development Secretary (Nos. 3 to 5 of 2000/2001); and
- (4) Statement of Improvement and Development Fund Reallocations approved by the Financial and Development Secretary (No.2 of 2000/2001).

Ordered to lie.

## BILLS

### FIRST AND SECOND READINGS

#### SUSPENSION OF STANDING ORDERS

HON K AZOPARDI:

I beg to move the suspension of Standing Order 7(3) to suspend Standing Order 7(1) in order to proceed with Bills.

Question put. Agreed to.

## THE MOTOR FUEL (COMPOSITION AND CONTENT) ORDINANCE 2001

HON K AZOPARDI:

I have the honour to move that a Bill for an Ordinance to repeal and re-enact the Motor Fuel (Composition and Content) Ordinance 1998 with amendments so as to transpose into the law of Gibraltar Council Directive 1999/32/EC relating to the sulphur content of certain liquid fuels, be read a first time.

Question put. Agreed to.

### SECOND READING

HON K AZOPARDI:

I have the honour to move that the Bill be now read a second time. Mr Speaker, this is a short Bill which implements Council Directive 1999/32 relating to the sulphur content of certain liquid fuels. The purpose of the Bill is to achieve the following: in the first place to make it an offence to use heavy fuel oil on or after the 1<sup>st</sup> January 2003 with a sulphur content exceeding 1 per cent subject to certain exceptions. Secondly, it makes it an offence to use gas oil or marine gas oil on or after the 1<sup>st</sup> July 2000 with a sulphur content exceeding 0.2 per cent per mass and to use such oil on or after the 1<sup>st</sup> January 2008 with a sulphur content exceeding 0.1 per cent per mass. Thirdly, it requires the Competent Authority to check by sampling the sulphur content of those fuels. It then revokes the Motor Fuel (Composition and Content) Ordinance 1998 which will be superseded by this Bill and it sets out technical requirements for the analysis of samples taken.

Mr Speaker, the general context of the directive is that it sets maximum permissible levels for the sulphur content of heavy fuel, 1 per cent from 2003 and gas oil 0.1 per cent from 2008 which are



used primarily in power stations and industrial boilers and furnaces. Sulphur is naturally present in small quantities in oil and coal and the use of these fuels for energy production, heating and transport results in sulphur dioxide emissions and one of the paragraphs which preface the actual directive makes clear this environmental thrust in the directive. Emissions of sulphur oxide contribute to poor air quality in and around urban areas which can endanger human health in the environment and they may also be transformed into sulphurs which as hon Members will know contribute to acid rain. Mr Speaker, the Department has consulted the industry in Gibraltar to see what are the consequences of this Bill. I commend the Bill to the House.

Discussion invited on the general principles and merits of the Bill.

HON J C PEREZ:

Mr Speaker, the initial directive was transposed into law on the 20<sup>th</sup> March 1998. It was brought by the Hon Mr Montegriffo who at the time said that there was not a Competent Authority to monitor this because it was basically self-regulatory more by the importers of the fuel than by anything else. But the new directive which is incorporated in the Bill has provisions for monitoring the importation of this fuel and has provision for having to inform the European Commission on an annual basis of the result of that monitoring and I would certainly like to know whether the Government have taken a decision of who in Gibraltar is going to be the Competent Authority. I note that there is power to make arrangements for this by Regulation but we would certainly like to know whether it is going to be the Environmental Health Department or any other area who are going to monitor this and who are going to report to the European Commission on an annual basis on the test of this.

Also, as the Minister said, it basically affects areas such as generating stations. I would like to know if possible if we have checked whether either of the two generating stations or the desalination plant are affected by this directive and whether the Departments or companies concerned have been informed that

they need to take remedial measures before the directive is enforced. If that is clarified, we have no major objections to it.

HON K AZOPARDI:

Mr Speaker, on the first question, the Government have not yet taken a final decision in relation to the Competent Authority. There are different options. The hon Member mentioned one but we have not yet taken a final decision on that. Secondly, on the impact to the industry my predecessor consulted the industry in relation to this directive. The only plant that is affected, according to my notes, is Lyonnaise who, as a result of this directive, will have to start using different types of fuel at their desalination plant, a lighter type of fuel given that this directive represents restrictions on the heavy types of fuel. They will have to use a more low sulphur fuel which will increase, no doubt, the costs of running the desalination plant. They are the only ones who are affected by this directive.

Question put. Agreed to.

The Bill was read a second time.

HON K AZOPARDI:

I beg to give notice that the Committee Stage and Third Reading of the Bill be taken later today.

Question put. Agreed to.

## **THE POLLUTION PREVENTION AND CONTROL ORDINANCE 2001.**

HON LT COL E M BRITTO:

I have the honour to move that a Bill for an Ordinance to transpose into the law of Gibraltar the provisions of Council

Directive 96/61 concerning integrated pollution prevention and control, be read a first time.

Question put. Agreed to.

## SECOND READING

HON LT COL E M BRITTO:

I have the honour to move that the Bill be now read a second time. Mr Speaker, the Pollution Prevention and Control Ordinance 2001 implements the provisions of Council Directive 96/61/EC on integrated pollution prevention and control. The Ordinance is a relatively short one, only 10 sections, and largely refers back to the provisions of the directive itself. The purpose of the directive is to require certain industrial activities specified in Annex I to the directive to be authorised in order to attain a high level of protection for the environment as a whole. This is to be achieved by preventing or reducing emissions to air, water and land, including measures concerning waste. The directive applies to six categories of industry, that is, energy, production and processing of metals, minerals, chemicals, waste management and others. This last category includes facilities operating in the areas of pulp and paper production, textile treatment, tanning, food production and the intensive rearing of poultry and pigs. The House will note that few, if any, of the activities described are carried out in Gibraltar. Each facility covered by the directive must be made subject to authorisation through permits. New plants will have to comply with authorisation requirements as from the date of coming into operation of the proposed Ordinance, whilst existing plants have to apply for a permit by 30<sup>th</sup> October 2004. Permit holders are required to advise the enforcement authority of any changes or modifications in their operations. Furthermore, the enforcement authority must periodically reconsider and, if necessary, update permit conditions. Reconsideration must be undertaken, inter alia, when excessive pollution occurs or when technical developments allow significant

emission reductions without excessive force. A permit is defined as that part of the whole of a written decision or several such decisions granting authorisation to operate all or part of an installation subject to certain conditions which guarantee that the installation complies with the requirements of the directive.

A permit may not be issued by the enforcement authority unless it can be guaranteed that an installation will meet the requirements of the directive. Permits are to include certain specific requirements such as details of arrangements made for air, waste and land. Emission limit values must be defined for pollutants likely to be emitted in significant quantities and, if necessary, a permit must prescribe requirements for protection of soil and ground water and management of waste. Emission limit values must be based on best available techniques, that is, the most effective and advanced techniques designed to prevent and, where this is not practicable, generally reduce emissions and impact on the environment as a whole. In all cases permits must contain conditions to minimise long distance and trans-boundary pollution and to ensure a high level of protection for the environment as a whole. Permits must also contain monitoring requirements and an obligation to provide data to the enforcing authority and measures relating to non-normal operations such as accidents.

Section 8 of the Ordinance requires the enforcing authority to comply with Articles 16 and 17 of the directive. Article 16 requires submission to the Commission of information on implementation of the directive. The limit values laid down for each specific category of installation and in particular the best available techniques from which such values are derived. Article 17 deals with consultation and submission of information between Member States where there are likely to be negative effects from the operation of an installation in one Member State on the environment of another Member State. I commend the Bill to the House.

Discussion invited on the general principles and merits of the Bill.

HON DR R G VALARINO:

This Bill hardly affects Gibraltar, as the Minister has said in his wide ranging explanation. As far as Gibraltar is concerned the quantities are far too large and there is no reason why we should oppose this Bill.

Question put. Agreed to.

The Bill was read a second time.

HON LT COL E M BRITTO:

I beg to give notice that the Committee Stage and Third Reading of the Bill be taken later today.

Question put. Agreed to.

#### **THE SUPPLEMENTARY APPROPRIATION (2000/2001) ORDINANCE 2001**

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I have the honour to move that a Bill for an Ordinance to appropriate sums of money to the service of the year ending with the 31<sup>st</sup> day of March 2001, be read a first time.

Question put. Agreed to.

#### **SECOND READING**

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I have the honour to move that the Bill be now read a second time. Mr Speaker, the Bill seeks the appropriation of a further £9

million from the Consolidated Fund to the current financial year to the 31<sup>st</sup> March 2001. The Heads of Expenditure concerned are set out in the Schedule to the Bill and further details in the statement of Supplementary Estimates issued to hon Members last week and laid in the House earlier today. The Explanatory Memorandum to the Bill explains how £3.9 million is required by three statutory bodies who are part funded by the Government. The remaining £5.1 million is for unforeseen departmental spending as set out in the Explanatory Memorandum.

Mr Speaker, the Chief Minister will be expanding on the requirements for the additional funds. I will just make two brief points which may be of assistance to Opposition Members in considering this Bill. First, of the £3 million voted for the Supplementary Provision in the Approved Estimates 2000/2001 some £2.2 million has already been reallocated. The remaining £800,000 is fully committed, hence the reason for this Supplementary Appropriation Bill. Secondly, should all the Supplementary Appropriation of £9 million be spent, about half of this amount is forecast to be met by higher overall revenue than we anticipated at the time that the Estimates were prepared. The rest would come off the bottom line reducing the projected surplus from around £16 million to £11 million to £12 million. I commend the Bill to the House and give way to the Chief Minister.

HON CHIEF MINISTER:

Mr Speaker, as the Financial and Development Secretary has just said, and as is also set out in the quite full Explanatory Memorandum that we have attached to the Bill, the requirements for this Supplementary Appropriation is a combination consisting of three factors. One is the need for accounting purposes to eliminate deficits that certain statutory bodies have been carrying forward from past years as well as providing them with additional funds for the current year in respect of which they have required more funds than was provided for in the Consolidated Fund. There is additional Government expenditure driven by policy. That, for example, is the case of a provision that was made in order to fund the Elderly Persons Minimum Income Guarantee

and then there are some additional expenses which are unavoidable and which reflect the fact that certain costs are imported into Gibraltar, the biggest of which is the cost of fuel increases as it affects the Electricity Department. Starting first with the £1.9 million by which we need to increase the financial provision made to the Gibraltar Health Authority, hon Members will be aware that the Gibraltar Health Authority does not operate for financial purposes as a Government Department and that what this House does, in effect, is just provide an annual subvention figure. True it is that this Government started the practice of providing at the back of the Estimates booklet and by way of information a pro forma Estimates broken down in detail of the Gibraltar Health Authority, but it does not alter the fact that for the purposes of financial control the Gibraltar Health Authority is not a Government Department and what we approve here are not funds for specific purposes as we do with Government Departments but rather a subvention figure which is usually the balancing figure that they need after our own revenue derived from the Group Practice Medical Scheme fees and things of that sort. That is the figure, therefore, that we are voting to increase here by the amount of the subvention provided by the Consolidated Fund to the Gibraltar Health Authority.

Mr Speaker, the accumulated deficit as on 31<sup>st</sup> March 2000 was £1.3 million and I shall not repeat the figures for the purpose of Hansard because they are set out in the Explanatory Memorandum or perhaps I should because the Explanatory Memorandum is not put into Hansard. As I said the Gibraltar Health Authority had an accumulated deficit as at 31<sup>st</sup> March 2000 of £1.3 million and that comprises a deficit of £468,000 developed in the Financial Year 1997/98; £152,000 in the Year 1998/99; and £667,000 in respect of the Year 1999/2000. The bulk of the sum, however, relates to £1.6 million of actual overspend this year and that relates as follows:

Net Pay Settlements	£500,000
Prescriptions	£500,000

Compensation, claim in respect of a child whose delivery was mishandled in Maternity and there is now a large settlement of

that case. I am happy to tell the hon Members privately, if they have not already identified the case,

Compensation	£300,000
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and that is I think a small part of what the settlement will cost. The Government are working on what is called a structured settlement. Rather than paying out a capital sum, this is now standard practice in the UK as well, it is called a structured settlement where the party responsible usually the Health Authority in the UK makes annual payments for the maintenance and support of the person concerned rather than pay out a capital sum which bears no relationship to the life expectancy of the person. There is a £300,000 element of fees and expenses which are being paid out. I think, although I cannot be certain, most of the £300,000 is in respect of the cost of purchasing a suitable property in Gibraltar which is part of the settlement for that family. This case goes back to 1986.

£100,000 extra expenditure on medical and surgical appliances; £100,000 on hardware which is mainly clinical waste disposal bags and an extra £80,000 for dressings, medical gasses and tests et cetera. That makes £1.6 million which is the bulk of the expenditure. £300,000 is the extra additional provision for previous years deficit. The £1.9 million that we are seeking to vote additionally for the Health Authority is comprised as to £1.6 million of actual additional expenditure this year and £300,000 additional provision for elimination of a previous year deficit. Of course, that money has already been spent in the previous year by way of an advance from the Consolidated Fund. That last £300,000 is not actually money that is going to be spent, it is more a provision to enable what presently stands in the books of the Government as a debt by the Gibraltar Health Authority to the Consolidated Fund to be converted into a grant. But in order for it to be converted into a grant it has first to be voted by this House.

Mr Speaker, the second heading which the hon Members will see still under statutory bodies £1.5 million is required by the Gibraltar Development Corporation Employment and Training Division.

This additional expenditure is partly to meet the Gibraltar Development Corporation deficit for the year 1999/2000 and that accounts for £211,000. Again, as in the case of the Health Authority, that had been funded by an advance from the Consolidated Fund. The need for additional expenditure arises principally as follows: the Forecast Outturn for the year to 31<sup>st</sup> March 2000, which was published in the Estimates of the year 2000/2001 projected a contribution from the Consolidated Fund of £137,000, whereas the actual contribution required turned out to be closer to £600,000. In the Estimates for the year just ending now, whereas we projected a contribution from the Consolidated Fund of £130,000 the actual requirement has been £600,000. Of this £600,000 some £393,000 was met from the Supplementary Funding vote. This left a deficit to be carried forward of £211,000 which is now being made good by way of Supplementary Appropriation Bill. This amount can be attributed to a shortfall in receipts of £37,000 and £174,000 on training and vocational cadets.

Of the remaining £1.3 million out of the £1.5 million that we are voting for this purpose, about £800,000 is to meet projected shortfalls in receipts of European Social Funds which are now unlikely to be received before 31<sup>st</sup> March 2001. The delay in recovering monies has been due to time lags and submissions of applications in respect of the EU Programme ending on 30<sup>th</sup> June 2000 by Government Departments. The £800,000 has now been claimed and will be recouped in the next Financial Year 2001/2002. That is really a cash flow provision.

Mr Speaker, expenditure incurred on training courses on vocational cadets is £800,000 higher than estimated which has been offset by underspend in some areas. The changed expenditure profile can be largely explained as follows: in terms of overspends on training we have £200,000 on vocational and post-graduate courses; £80,000 on civil service training; £65,000 on the delivery of maritime-related courses; £60,000 in the Cammell Laird training facility; £45,000 on remuneration for nursing trainees. On the vocational cadet side there has been a £200,000 over-expenditure on a scheme for JBS to employ

apprentices that came out of the Construction Training Centre and a provision of £150,000 to provide for the Social Security contributions of trainees. All those were the overspends. The underspends were £187,000 on the Construction Training Centre and £35,000 on subsidies. The effect of the over and under expenditures is the need to provide this additional vote that we are now considering.

Mr Speaker, under the heading Employment and Public Services, Environment, Sport and Leisure there is a large provision in the Bill of £3.9 million. There are a series of large factors here, almost all of them outside our control. I think it is probably true to say all of them outside our control. The first item is the provision of £200,000 for the disposal of refuse. Following the unexpected breakdown of the incinerator in April 2000 alternative arrangements had to be made to dispose of refuse in Spain. The additional cost over the provision in the Estimates for the now defunct In-Town contract is £100,000 for normal household refuse and a further £100,000 to dispose of clinical waste. Let me just explain that to the hon Members. The historic In-Town disposal had a cost and it is that cost that is provided for in the Estimates, it was £1.7 million. That contract, of course, was terminated by the Government purchase of In-Town and that money has been available to the Government for the alternative refuse disposal purposes. Therefore, the £200,000 that we are now voting is the extent by which the new refuse disposal arrangements are more expensive than was provided for for the old disposal arrangements. I would not wish the hon Members to think that £200,000 is the cost of the new refuse disposal arrangements. We have also used the money that was provided for the old refuse disposal arrangements which, of course, were ended as soon as the In-Town contract was ended. It was subsequently taken over by the plant now in the operation of Government, but of course when it broke down the Government-owned plant could not take over the disposal. In chronological order the Government purchased the plant and therefore cancelled the In-Town contract but then continued to run the plant in its own ownership using the existing operators as managers. Then the plant broke down and had to stop burning refuse pending a

reconstruction project which is under consideration. The effect of the breakdown of the plant was not just felt in the area of refuse incineration not only as a result of the breakdown of the plant. Government had to make arrangements for our refuse to be burnt in Spain but of course Lyonnaise des Eaux lost an important source of water supply to them because the plant, without the ability to burn refuse, could not produce water from its desalination plant. In order to tie Lyonnaise des Eaux over and so that there should not be a deficit in Gibraltar's ability to produce the water that it requires the Government agreed with Lyonnaise des Eaux to hire and run at the desalination plant two portable boilers so that the desalination plant at the refuse incinerator has continued to operate. Instead of using the steam created as a result of burning the refuse as fuel for that distiller what has happened is that in effect a boiler has been plugged into it. Those were hired from the UK and the cost of running those for this year is £700,000 which is the figure being required. That will be partly reduced in the future although it will not happen this Financial Year because the Government are now entitled to invoice Lyonnaise for the water that we have been able to produce. Although it was not done obviously as a revenue-raising measure the boilers were hired in order to ensure that Gibraltar had enough sources of water production but under the contract with Lyonnaise the incinerator is entitled to charge Lyonnaise for water produced and exported by the incinerator to Lyonnaise. It is expected that that will generate revenue of about £200,000 as at February 2001. As it will not be invoiced and it certainly will not be received during this Financial Year it has not been netted off and what we are seeking from the House is the whole of the £700,000.

A very large item, Mr Speaker, is for fuel in connection with electricity and there is a total of £2.5 million. That results in two different ways. Of that £2.5 million which is the additional cost of generating electricity in Gibraltar as a result of the increase that there has been in the cost of fuel oil in the international market over the last year, £800,000 is the additional cost of fuel consumed by the Government's generating station. But, of course, the contract with OESCO for the purchase from OESCO

of electricity also has a fuel cost adjustment surcharge formula so that OESCO has been entitled and has exercised its right to raise the fuel cost adjustment surcharge that it charges the Government for electricity that the Government purchased from OESCO. That has represented about £1.46 million on existing levels of electricity purchased plus £240,000 in respect of higher electricity purchased. £1.46 million has been paid to OESCO in respect of higher fuel surcharge due to the increased cost of fuel internationally and an additional £240,000 has been paid to OESCO simply because more electricity that was envisaged has been purchased from them this year under the contract.

Still under Head 4 Public Service, Environment, Sport and Leisure there is a £500,000 provision for an additional grant to GBC to eliminate the accumulated cash deficit as it existed at the end of the Financial Year ended 31<sup>st</sup> March 2000 and a significant part of this year's forecast deficit. They had a cash deficit of £260,000 as at 31<sup>st</sup> March 2000. As at the end of the last Financial Year they carried forward a cash deficit of £260,000. This, primarily, arose because the commercial relaunch of GBC did not produce the projected increase in sales revenue but of course incurred the increased staff and related costs. No supplementary funding was made available except in respect of pay settlement in the Government's Financial Year 1999/2000 due to commitments elsewhere. The consequence of this was that most of GBC's Social Insurance and PAYE for that year was not paid until the first quarter of the current Financial Year 2000/2001. The other £240,000 in the Supplementary Appropriation Bill is to meet a projected cash shortfall in the current Financial Year comprising £180,000 and the repayment of overdraft facilities of £60,000. All in all a £500,000 grant to GBC roughly split, fifty/fifty between deficits in respect of their last Financial Year and this Financial Year just ending.

Moving now to the Social Affairs Vote, Head 5, a provision of £300,000 is to provide a grant to the Social Assistance Fund in connection with the commencement of funding of the Minimum Income Guarantee Scheme. Of course, this figure of £300,000 does not reflect the cost for one year of the Scheme, only that

part of it which is thought might be paid out in what is left of the current Financial Year. Indeed, it is wholly unlikely that £300,000 will be paid out before 31<sup>st</sup> March. There is provision to enable the Social Assistance Fund to have some provision so that it can get on with payments in April and May. There is no accurate measure yet of what the cost of the Minimum Income Guarantee Scheme will be in a full year. That will become clear only when the last of the applications have been processed.

There is, under Head 15 Supplementary Provision a provision of £1 million for the subhead (a) Pay Settlements and this is to provide further funds towards the cost of meeting the 1999/2000 Pay Awards, both of which have been settled, in part, in the current Financial Year. The total cost of the settlements up to the 31<sup>st</sup> March 2000 is forecast to be over £2 million. This reflects only arrears of salaries. Because of the time it has taken to calculate and check arrears of overtime and allowances these are not now expected to be paid for most Departments until April 2001 at the earliest. There could therefore be around £500,000 which could be available for re-allocation to the Supplementary Funding subhead as required. We may not need the whole of the £1 million extra that has been provided for in this Bill. It depends how quickly the Treasury processes the calculation of the overtime and allowances part. As the hon Members will recall when there is a retrospective Pay Award the easiest part is to calculate how it affects peoples' basic pay but then one has to apply retrospectively to their allowances and to their overtime hours and that is a much more complicated exercise that takes longer. I commend the Supplementary Appropriation Bill to the House.

Discussion invited on the general principles and merits of the Bill.

HON J J BOSSANO:

Mr Speaker, on the general principles and merits of the Bill we are not going to go into every item on the statement that accompanies the Bill. We will actually be asking questions on the items when we come to vote the items in the Committee Stage. Perhaps if I

can give some indication of some of the things now then it will help to have the information, if possible. On the last item that has been mentioned on the Social Security we appreciate that the final figure will not be known until the final person has been processed but presumably there is now an advance on the information that was not available at the time of questions, when I had a question on the numbers and the breakdown of the different categories of income. We would like therefore to have what is the most recent assessment in the knowledge that that is not the final figure. Presumably, the fact that £300,000 has been put there as opposed to £200,000 or £400,000 must be there for a reason.

I note that in talking about the general principles in the Explanatory Memorandum of the Bill and in the opening statement when the Chief Minister spoke just now, initially in relation to the Health Authority he talked about the clearing of the deficit accounting for £1.3 million but I think he corrected that at the end when he said that the money we are voting now is £300,000 for the clearing of the deficit because at Budget time there was already a sum of £988,000 because otherwise the figures do not add up because if it is £1.3 million and £1.6 million it should be £2.9 million.

I think also it would be useful to have an idea in relation to the amount of money that is being spent on the water production as to the volume of water that this has produced and what the hire cost and what the running cost of these boilers are and for the period covered by the £700,000 so that we can have an idea if it carries on beyond the 1<sup>st</sup> April, what is the monthly cost and an idea of the output so that even though the figure is not netted I think it would be useful to know what the net effect on the Government finances are given that a figure of £200,000 as potential yield from the sale of water has been given in relation to £700,000. Would a reasonable deduction be that we are making water at three and a half times the cost of what we are selling it for or not? If not, I think an indication of volume and time over which the £700,000 is spent would help to make an assessment of that.

I also feel that in terms of the £200,000 additional cost to the disposal of refuse, is it that when the incinerator is functioning presumably we will be producing water without boilers, will that be producing revenue for the Government or will it be producing revenue for the manager? Therefore, the contracted cost of refuse disposal when there are no boilers, is that a gross figure against which a revenue amount is being yielded which will appear presumably on the other side of the Government accounts or is that a net figure that the contractor is paid but he keeps the money from the water?

Apart from that on the question of the grants no doubt my Colleague will want to have some information because we had raised at the time whether there was enough money being provided a year ago for scholarships. We would like some information on those which will be dealt with at the Committee Stage.

HON CHIEF MINISTER:

Sticking to the general principles, Mr Speaker, and leaving for the Committee Stage what is best dealt with at that stage, I am afraid I am not able to give the hon Member today more information than I have on the annualised cost of the Minimum Income Guarantee Scheme. I am advised by the Minister for Social Affairs that the information that he asked for at Question Time is still being worked on by the Department. The Department is projecting a figure of somewhere in the order of £1 million for a year being the cost of this but if I were the hon Member I would not attach too much scientific value to that figure indeed or any at all. I certainly have not. I am waiting for the applications to be assessed and the payments to begin in earnest in the right quantity for the total cost to be assessed. As soon as we have it available I will see that it is passed on to the hon Member without him having to ask for it.

The hon Member is quite right on his interpretation of what I hope I said, obviously I had not said it clearly enough on the GHA

deficit. There had been provision in the Estimates and this is an additional provision.

On the last point that the hon Member raised, water production, there were two parts to the question. First was the cost. Yes, we are producing, Government are sustaining a loss on an interim basis. We have a contract with Lyonnaise which establishes the rate at which the plant has to provide water to Lyonnaise. That rate is fixed by the contract. It is not cost-related and therefore the plant which now means the Government have had to incur extraordinary cost in order to be in a position to provide that water, not because there was enormous pressure in contractual terms from Lyonnaise for the Government or the plant to comply but rather because Gibraltar needed the plant's capacity. The Government were advised by Lyonnaise that the continuity of water supply in the event of other machine breakdown or essential maintenance could not be guaranteed if the source of production that was the desalination plant in the incinerator was offstream for any lengthy continued period of time. As at that stage the Government were not in a position to confirm that the incinerator plant would be up and running within even a 12 month period it was thought necessary to incur the extra expenditure of the Government in effect providing water and supplying it to Lyonnaise at a loss. The gross cost is £700,000 of which we hope to recover the £200,000 that is the revenue from the invoice that will be sent to Lyonnaise for the water that has been produced. That situation should not prevail beyond..... I think it is scheduled for June but subject to technical.....at the same time it was decided that Lyonnaise should invest in a new desalination plant of its own which the Government have allowed it to build in one of the caves behind the incinerator so that it could make use of the pipe infrastructure that already exists. That is a Lyonnaise desalination plant and that is I understand scheduled to come on stream in June at which time, from the point of view of Gibraltar's water production capacity, it will be possible to stop using these boilers, send them back to the UK and therefore stop incurring the cost of running them which are basically hireage and fuel consumption. That will have been a



one-off expenditure during an interim period whilst Lyonnaise built a new additional reverse osmosis desalination plant.

In so far as the future of refuse incineration is concerned, and how it has been operating in the interim which is the two things the hon Member touched on, no, the Government are now the owner of the plant and therefore we are not paying anything at all, the plant is not burning refuse. At the moment burning refuse is just a cost to the Government, the cost of collecting the rubbish from the incinerator dumping area next to it and transporting it in lorries to the refuse tip in Los Barrios. That is just pure cost. In addition to the cost of the burning fuel and burning the refuse in Spain plus the cost of transporting it to Spain to be burnt the Government are also paying a cost for keeping the non-functional refuse incinerator going. For example, we have not made any of the staff redundant and therefore the Government are still paying for the salary costs. The old managers are still there but on a 15 per cent cost plus formula. The costs are actually very little, the costs are probably now down to the salaries of the staff because they are probably doing very little maintenance work. That, in turn, is because the Government are about to make a decision on the future of that plant, the future for refuse incineration in Gibraltar since the burning of the refuse in Spain itself is an interim measure forced upon us by the breakdown of the plant in circumstances that we were told was simply beyond repairs. The patch up work done on it systematically especially to the burning chambers over the last five or six years just could not be done any more. The thing had to be stripped down and rebuilt. Then there is the question of additional new requirements on smoke emissions and things which had to be incorporated into the repairs. We are in the realms of a reconstruction of the incinerator. That raises issues of whether in the reconstructed plant we could produce water or electricity or just go for a simple incinerator? All that has been number and technology crunched over the last year and the Government are on the verge of making a decision for the new incinerator project. There is no netting in terms of refuse and there is no contractor earning anything. Everything is cost absorbed by Government in terms of refuse incineration. The plant is owned by a Government company

called Europa Incinerator Ltd so the revenue of £200,000 would be revenue of Europa Incinerator Ltd rather than revenue of the Consolidated Fund. It is a netting off to that effect. At the moment it is £700,000 of cost to the Government. The £200,000 will be invoiced by Europa Incinerator Ltd.

Therefore, Mr Speaker, it has not been a good year in terms of mishaps. Not only have we, in financial terms, had to sustain the most significant financial cost of a sharp increase in the cost of fuel as it affects electricity generation but we have also had to contend with the consequences of a broken down incinerator which has generated severe additional extra cost for the burning of refuse. That, in turn, has had repercussions on our ability to desalinate enough water which has required us to spend additional money on making sure that we can keep up our water production costs.

HON J J BOSSANO:

Would the Chief Minister give way? I asked about the period for which the £700,000, is it for a full year? Would we be talking that it is now costing £2.2 million in a year or is this for part of the year?

HON CHIEF MINISTER:

Mr Speaker, the boilers were in Gibraltar, up and running, in August 2000 but I dare not tell the hon Members the cost relates from August because I am sure that we have been contractually bound to pay hireage from the moment that they left the supplier in the UK. I have not got available the exact date but it is for less than a 12 month period that £700,000 because if they arrived here in August they may have come on hire in June, July. As far as this financial year is concerned it is from June, July to end of March and possibly April and May of the next financial year depending on when the new Lyonnaise desalination plant comes on stream which, as I told the hon Member, is scheduled for June. I have figures for the months during which the water to be

invoiced was produced. I am sure the hon Member is not particularly interested in that.

Question put. Agreed to.

The Bill was read a second time.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I beg to give notice that the Committee Stage and Third Reading of the Bill be taken today.

Question put. Agreed to.

### COMMITTEE STAGE

HON ATTORNEY-GENERAL:

I have the honour to move that the House should resolve itself into Committee to consider the following Bills clause by clause:

- (1) The Drug Trafficking Offences Ordinance 1995 (Amendment) Bill 2001.
- (2) The Motor Fuel (Composition and Content) Bill 2001.
- (3) The Pollution Prevention and Control Bill 2001.
- (4) The Supplementary Appropriation (2000/2001) Bill 2001.

## THE DRUG TRAFFICKING OFFENCES ORDINANCE 1995 (AMENDMENT) BILL 2001

### Clause 1

HON CHIEF MINISTER:

I think I mentioned during the Second Reading that the Bill had been erroneously drafted in that it was headed Amendment to section 43 and then goes on to say ".....section 43 of the Drug Trafficking Offences Ordinance 1995 should be replaced with the following new section.....". That was never the intention. Section 43(a)(1) that is set out in the Bill is not instead of the existing section 43, it is in addition to the existing section 43. The heading should be changed to read "amendment to the Drug Trafficking Offences Ordinance 1995". Then, the first sentence should read "the Drug Trafficking Offences Ordinance 1995 shall be amended by inserting the following new section after section 43".

The amendment that I moved deals with that defect as well with which my amendment deals and in front of everything that I have just said there should be the figure "2" so all of that should be the second. Clause 1 should be the citation headed "Citation 1. This Ordinance may be cited as the Drug Trafficking Offences Ordinance....." and then we have the new heading amendment to the Drug Trafficking (Amendment) Ordinance 1995. Then there should be a "2" as in paragraph numbered 2. dealing with the clause introducing new clause 43(A)(1). My amendment includes adding the figure "2" in front of the new language which I suppose means that I have spoken slightly prematurely since we are in clause 1.

Clause 1, was agreed to and stood part of the Bill.

### Clause 2

HON CHIEF MINISTER:

Mr Chairman, I have a new amendment on Clause 2

HON J J BOSSANO:

When we discussed the Second Reading what the amendment is now curing is what caused me to say that at the time we were not in a position to give our view on this because we had assumed from the wording that is now being corrected that this was replacing the existing section 43 and as far as the general principles are concerned it raises quite different principles if this is in substitution of section 43 or in addition to section 43. Clearly, in terms of what the Bill seeks out to do we wish to support anything that is required in Gibraltar to ensure that it does not get used for drug trafficking or for money laundering. Therefore, there is no problem with that particular principle. That, as far as the way that it is being done or the need to do it, in the Explanatory Memorandum it says that the purpose is to increase the Police and Customs powers in relation to the investigation of offences and that this is achieved by allowing the courts to provide an Order for a person under investigation to appear before the Judge with specified materials. This does not seem to be what it is doing.

Let me say therefore what we would like, in the light that this is not what it is doing and originally we were told that this was about Production Orders which were different from the existing provisions which were about getting Warrants and searching places. I think also an indication was given that it was so that people like banks or intermediaries could produce information to the Courts. We would want to know that this is because (a) we cannot do it with the law as it stands now and there is a problem; (b) that this is something that the industry has been consulted upon and will create for them difficulties in being required to do something here that is not being done somewhere else. We would like to know if there are similar provisions in the UK and whether we have actually lifted it out of the UK legislation and brought it in as a result of the fact that it is an addition to an existing law which has not been on the statute book all that long.

HON CHIEF MINISTER:

What the hon Member is asking me is to repeat the Second Reading remarks that I made to him but I am very happy to make them to him again. The Bill is designed to create a procedural deficiency rather than giving any new rights of substance. I will explain that to the hon Member.

As the Drug Trafficking Offences Ordinance 1995 presently stands, existing section 43, the one that we nearly inadvertently repealed and accounts for my first amendment, the existing section 43 provides for a Search Warrant to be obtained by Police or Customs Officers for material to be seized and for that to be transmitted onwards by the Attorney-General to the investigating authority on whose behalf following receipt of a Letter of Request the whole thing has been done. One can only obtain a Warrant to go and search and seize material and then have the Attorney-General ship it out to the requesting party if it is on premises in the possession or owned and controlled by the person being investigated or having been charged, in other words, the defendant, the accused or intended accused. Section 43 Search Warrants apply only, as it says, that criminal proceedings have been instituted against the person in another country; that the conduct constitutes an offence in Gibraltar; and that there are reasonable grounds to suspect that they are on premises in Gibraltar occupied or controlled by that person. Section 43 applies only to the seizure of evidence from property occupied or controlled by the person under investigation. That is existing section 43. Existing section 60 already provides for the obtaining of Production Orders from third parties, in other words now no longer for property on the premises of the accused or intended accused or from a bank or a lawyer. The problem is that section 60, unlike section 43, does not go on to say "..... and the Attorney-General can just ship the information away." Section 43 has the mechanics for seizure, for search and obtaining the information and for the material seized to be shipped off to the requesting party but applies only to information, evidence and material on premises owned by the accused. Section 60, which is not so limited, applies to third parties and materials and evidence on property in the possession of third parties but does not go on

to say that the Attorney-General, having obtained the Order, and it is not just the Attorney-General, this power is open to the defence as well, having executed the Order by going in to search and seize, is then not free to simply pack it all in a cardboard box and post it off to the requesting authority. What he has hitherto been required to do, once he obtains the material from a third party's premises, is regulated by existing Section 40 which is that he has to appoint a court, the old examining procedure, where a Gibraltar Court or examiner is appointed, then takes evidence again from the person in control of the third party premises, the evidence is formally tendered at that procedure and then the Attorney-General is free to pack it off. What the Bill is intended to do is simply to provide a mechanism whereby at the end of the Production Order procedure the Attorney-General has the werewithal to provide the seized information, the law for the obtention of which already exists, but has the means, the legal cover, for providing the information obtained from a third party under the Production Order section which he already has under the Search Warrant procedure of section 43 in respect of evidence seized from premises owned or controlled by the person under investigation. The hon Member is right in harbouring the view that one ought not to deal with material found on the property of the person actually under investigation in the same way as one treats information in the possession of a third party. The law as it presently stands simply means that that takes a long time. It can be done but it just takes several months to set up this court under section 40 of the existing law and this delays investigation and according to the Attorney-General brings the matter of the jurisdiction into disrepute and it takes us a very long time to deliver the fruits of Letters of Request. But the section 40 procedure does have the advantage that whether or not there is some form of judicial reviewing of the information, of the evidence that will ultimately be delivered and that the court has an opportunity to take that into consideration. The legislation drafted by the Attorney-General would require him as indeed the existing section 60 does to obtain a Court Order to enter and search but then the court never reviews the evidence seized. It is a purely administrative act. Once the Order is obtained he just sends it on his own discretion. The Government believe that there is an issue

there of the control of international gateways in a way that is capable of affecting the Finance Centre. I am glad that Opposition Members subscribe to the view that Gibraltar should play its full part in the international fight against international drug trafficking and money laundering. The Government, of course, share that view but it is also important that we do it in measure which is consistent with how this is done by other international finance centres who are equally committed to the fight against international drug trafficking and money laundering and that we do not create an international gateway for the outflow of information which is exclusively in the control of an authority that may not be as attuned and sensitive to the interests of the Finance Centre as others would be.

I hope the hon Member will recall from his days in the desk at which I now sit that as a matter of practice requests for international co-operation of this sort systematically and correctly come to No.6 Convent Place because international co-operation of this sort is not exclusively a judicial matter. International co-operation and exchange of information is initially a political administrative matter and then becomes judicial in the implementation of it. In England requests for international co-operation go to the Home Office where the Minister then makes a decision whether, as a political matter, as an administrative matter, the request should be entertained and if he thinks they should be then it gets dealt with by the judiciary in the same way. Therefore, Mr Speaker, to ensure that this new procedure that is being set up complies not only with the well-established practice but indeed is also subject to a consideration which has regard for the interests of the Finance Centre and financial service institutions in Gibraltar, I have given notice this morning of a further amendment so that in section 43(A)(10) on page 6, where it says "no application for an Order shall be made by virtue of subsection (2) except in pursuance of the direction given by the Attorney-General", after the words "in pursuance of a direction given by the Attorney-General" there should be added the words "with the prior consent of the Government expressed in writing by the Chief Secretary". That is in practice the practice and has been for such times. When Commission Rogatoire reach Gibraltar

they come to No.6 Convent Place where primarily they are tested for whether there is any political issue that arises. The hon Member may recall that there are issues about whether the ones that come from Spain are properly directed or they are addressed in a way that recognise the competence of our Attorney-General and the competence of our Courts and are not just addressed to the United Kingdom in a way that would avoid recognition.

Mr Chairman, I commend the amendment to the House not just because it will give statutory effect to current practice but also it will enable the Government to ensure that these powers are exercised only in genuine cases of drug trafficking and not systematically in a way which will cause harm to our Finance Centre in terms of sending the signal that Gibraltar is an open book without a regime that protects legitimate business. We are all agreed that there should be a full and rapid disclosure of information to assist the international fight against drugs and drugs trafficking but only in appropriate cases and that that procedure should not be used more widely in a way which would be incompatible with the need of financial services institutions to preserve the right of confidentiality of bona fide customers of banks, lawyers, accountants and people of that sort.

HON J J BOSSANO:

Mr Chairman, is it that the amendment now has been moved to the second amendment? Let me say that the amendment of course raises some principles which are not evident from the original Bill. I do not know to what extent it happens systematically already. The Chief Minister asked me to recall that it used to happen systematically in my time. Certainly, I do not recall a political decision being taken on whether a Commission Rogatoire should be responded to or not except obviously that it was standard practice by the officials that if it was not properly drafted it was sent back on the basis that it was not properly drafted. That did not require a political decision except that it would have been unacceptable that, for example, Spain should try and seek the co-operation of Gibraltar and at the same time try and seek to pretend that Gibraltar does not exist and trying to do both things simultaneously. But, of course, the proposed

amendment, if I am reading it correctly, means that the Government of the day will be entirely free to determine in the exercise of their judgement whether they want to provide the evidence once it has been obtained or not.

HON CHIEF MINISTER:

No, Mr Chairman, that was the clarification that the hon Member had sought. The consent of the Government is only required to the initiation of the procedure but once the procedure is initiated, once the Court Order is obtained by the Attorney-General, then the Government do not even get to see the evidence collected. The Government's consent is needed to the making of the application, not to their processing and not to the decision whether they should deliver the fruits of the procedure.

HON J J BOSSANO:

So what the Government then have to give the okay to is for the request to be channelled through this procedure but once it is channelled through that procedure it follows automatically?

HON CHIEF MINISTER:

It follows automatically without any further political or administrative involvement. It is up to the Court whether it accedes to the application and I suppose it is up to the Attorney-General whether he hands over the information material obtained or not. The Government have no role. This is a gateway check and balance, not intervention in the procedure once the gateway has been passed.

HON J J BOSSANO:

Can the Chief Minister confirm whether this has been more or less taken from the UK law? Or is it something that is home grown?

HON CHIEF MINISTER:

Mr Chairman, I cannot tell the hon Member because we have not drafted the Bill. The Bill has been drafted in the Attorney-General's Chambers. I cannot tell him whether the whole of the rest of it reflects, in drafting terms, whether it is a crib of UK law. The concepts are the same as UK law Production Orders. All international applications go to the central authority who is the Home Secretary and then he says okay and then it is subjected to the national domestic procedural regime for handling such requests after it has been signed off. The hon Member will have come across this in newspapers in terms of extradition. The Home Secretary first has to say yes then it goes to the courts who are subjected to judgement.

Clause 2, as amended, was agreed to and stood part of the Bill.

The Long Title was agreed to and stood part of the Bill.

#### **THE MOTOR FUEL (COMPOSITION AND CONTENT) BILL 2001**

Clauses 1 to 14, Schedules 1 to 3 and the Long Title were agreed to and stood part of the Bill.

#### **THE POLLUTION PREVENTION AND CONTROL BILL 2001**

Clauses 1 to 10 were agreed to and stood part of the Bill.

Schedule 1

HON DR R G VALARINO:

In Schedule 1, waste management, sub-section (5) I wonder whether the Minister would care to enlarge on 5(1) and 5(2).

HON LT COL E M BRITTO:

There is not really a lot to enlarge except to confirm to the hon Member that those two clauses apply directly to the disposal and recovery of waste and the incineration of waste and as such they will apply to the incinerator or such incineration or disposal activities that take place in Gibraltar. The Bill as hon Members will have noticed, tightens up pollution control and therefore, by implication, there will be increased costs in that we expect that there will be additional requirements on the incinerator than there have been in the past.

HON J J BOSSANO:

Mr Chairman, I think it is normal practice when we have got things like standards that need to be kept in this area, that existing plant get treated in one way and new plant gets treated in another way. When the incinerator was built it was obviously a vast improvement on what used to exist in Devil's Tower Road but the same requirements could not be made on the plant that existed in Devil's Tower Road as were made on the new plant that the Danes put in place. In our case, given what we have been told about the plant now facing a policy decision on what is a major reconstruction, would that mean that it would be treated as a new plant or would it be treated as an existing plant in terms of the requirements to get a licence?

HON CHIEF MINISTER:

Mr Chairman, this is not the European Directive that impacts most directly and immediately on the environmental aspects of waste incineration. Part of it is covered if the hon Member looks in the Schedule at page 35. These rules do apply, for example, to installations for the incineration of municipal waste but only when it is covered by the Public Health Offensive Trade Rules. The general waste incineration is covered by other Rules which deal mainly with smoke emission requirements and they do not distinguish, in other words, existing plant, one gets a period of time to add the additional capacity, usually it is a higher grade of

purification but in turn under those Rules there are different regimes applying to incinerators of different capacities. If one has a refuse incinerator that burns more than three tons per hour a much more stringent set of environmental controls apply than to small incineration plants which are defined as those that burn less than three tons per hour and obviously that would be borne in mind. That is one of the factors in the project that I described earlier.

Schedule 1 was agreed to and stood part of the Bill.

The Long Title was agreed to and stood part of the Bill.

## **THE SUPPLEMENTARY APPROPRIATION (2000-2001) BILL 2001**

Clauses 1 and 2 were agreed to and stood part of the Bill.

### Schedule

#### PART 1 – Consolidated Fund Expenditure 2000/2001

#### HEAD 1 – Education, Training, Culture and Health

HON S E LINARES:

Mr Chairman, can the Minister explain why he has seen it necessary to ask for additional funds of £400,000 in relation to mandatory and discretionary grants? Is it because in the last two budget speeches he announced the increases of Maintenance Grants by 10 per cent or is it the increases that were announced on the Rail Fare Travelling Expenses which went up by nearly 90 per cent? Is it the Tuition Fees which as the Minister stated that the British Government have ceased payment for these fees and that these had meant a heavy bill on our recurring expenditure? In the Maintenance Grant the Minister announced that the parental contribution was going to be reduced to £500 below

£20,000 of joint earnings or is it the £350 for the ones who were above £20,000? Can the Minister give a breakdown of the expenditure?

HON DR B A LINARES:

Mr Chairman, it is all those factors put together. The main factor in analysing the expenditure is the increased number of students who went to study in September 2000, 263 students as opposed to 194 the previous year. This is mainly because of our student success in 'A' levels, gaining access to mandatory scholarships and universities. The notional figure that we used in estimating is a figure of 190 so the hon Member can then put together the deduction from 263 is over 70 more scholarships granted this year. Then, of course, the 10 per cent increase in all allowances plus the reduction of parental contributions which the hon Member has described was also a factor indeed because it also had an impact on the increase in the number of students. In any case when the Estimates were prepared in January this was before the electoral commitment of these increases in allowances, in the Budget in estimating this figure these increases in allowances and the lowering of parental contributions was not entirely taken into account.

HON S E LINARES:

I appreciate that but it was pointed out by my Colleague saying that how was it that if the Government had increased all these allowances and improved on all the grants, in the Estimates there was still a shortfall, less money provided for. I find it odd that if the Government are now going to provide all these things, that when they come to Budget they provide less money for these things?

HON DR B A LINARES:

In the Estimates we have not calculated the increase in discretionary grants which was seen by the Scholarships Award Committee to merit further increase.

HON J J BOSSANO:

Mr Chairman, at the time of the Estimates, in Appendix J on page 138, the amount provided in the previous year was £166,000 and in the Budget last year this was reduced by almost £100,000 for which at the time there was no explanation. Is it now going back to £175,000 which is of course close to the previous year's expenditure of £166,000? Is that the £100,000 the one they took away?

HON CHIEF MINISTER:

Yes, an ineffective attempt at imposing financial discipline.

HON J J BOSSANO:

Can I ask, on the mandatory side, the £300,000 of course is on the contribution that we make to what is broken down in Appendix J. Mr Chairman, the amount in grant actually was £600,000 but I take it that £300,000 is not in fact all grant, is it? It is not that the grants have gone from £600,000 to £900,000?

HON S E LINARES:

In the explanation it says more grants given rather than the increases. What we are saying is that in the explanation it just had one, therefore that is why we are clearing it. Is it that there are more grants rather than the increases that have been announced?

HON CHIEF MINISTER:

Mr Chairman, I cannot give the hon Member the amount in figures but I can give it to him in the number of students. These figures accommodate 32 additional students.

HON J J BOSSANO:

As I understood it, the Minister said that the figure that had been pencilled in the Estimates was on the assumption of 190 mandatory scholarships.

HON CHIEF MINISTER:

Mandatory is 154 as opposed to the 186 which materialised. This is as a result of the fact that the Financial Year comes before the university year which comes later in June. Then the discretionary, they budgeted for 40 and gave 77.

HON J J BOSSANO:

The £300,000 on the Mandatory, when we looked at the figure last year in Appendix J, there appeared to be a peculiarity in that the tuition fees were going up from £325,000 to £412,000 even though the scholarships were coming down from £623,000 to £600,000, which is the question my Colleague was trying to get at, presumably the £300,000 involves increases in a number of these subheads not in the new scholarships to be awarded heading. Are we right? Is it that £300,000 is partly for new scholarships and that there is also more in rail fares and more in tuition fees which one would expect. Do we have a breakdown of that?

HON DR B A LINARES:

The 10 per cent increase in allowances also reflects on the increased number of grants awarded.

Head 1 was agreed to and stood part of the Bill.



## Head 2 Employment and Consumer Affairs

HON J L BALDACHINO:

Mr Chairman, on employment and consumer affairs, have the Government got a breakdown by how much has been overspent on training and vocational cadets, giving a breakdown for both?

HON CHIEF MINISTER:

I did give this information earlier but I am very happy to give it to the hon Member again. Overspends: Vocational and Post Graduate Courses £200,000; Civil Service Training £80,000; Maritime Courses £65,000; Cammell Laird Training School £60,000 and remuneration from nursing trainees £45,000. That is on the training side. The Vocational Cadets the scheme for JBS to employ apprentices comes out of the School Construction Training Centre and costs £200,000 and social insurance provision for trainees costs £150,000.

There was a saving, an underspend, in the Construction Training Centre of £185,000. In the wage subsidy scheme there was an underspend of £35,000.

Head 2 was agreed to and stood part of the Bill.

## Head 4 – Public Services, Environment, Sport and Leisure

HON J C PEREZ:

In Head 4, Technical Services. I think the Chief Minister said that the extra £200,000 for the disposal of refuse was like 50/50 in respect of disposal of normal refuse and disposal of medical refuse. Can I clarify, now that he has told the House that the ownership of the incinerator is Europa Incinerator Ltd, whether in the same way that payments were made from the recurrent expenditure to In-Town these payments go through Europa Incinerator Ltd and then they pay the staff and pay the contractors that dispose of refuse? Or are these contracts directly with the

Government? And could I ask whether on the two contracts if there are two or one whether it is a review of the contract for the removal of refuse from Gibraltar that has incurred this year's extra £200,000?

HON CHIEF MINISTER:

That is to the contractor who is removing the refuse. The arrangements with the Los Barrios tip are made directly by the Government. There is no intervening party there. It is a direct arrangement and we are using the incinerator tip as the tip to which refuse is taken in the first place and then from which it is carted away but these are financial arrangements directly between the Government and the incinerator. I cannot tell the hon Member..... the first part of his question was whether..... I suppose he means whilst the refuse incinerator was up and running. Of course it is not up and running now and therefore there is presently no disposal of refuse expenditure being channelled through Europa Incinerator Ltd or its managers except pay and the 15 per cent cost.

HON J C PEREZ:

So, similarly with the boilers, this is not an expenditure which is directly paid. The hire of the boilers is not something that the Government have done directly, they pay Europa Incinerator Ltd and they hire the boilers and they enter into the contractual arrangements? Or are we saying that only the pay element goes to Europa Incinerator Ltd for the payment of the staff that is there and the Los Barrios exercise is a direct payment by the Government and the boilers as well? I am asking because I found it strange that the contractual obligation by Lyonnaise was to pay water production into the company and that the expenditure should be divided into expenditure by Government and expenditure by the company. It does not seem to me to be a very neat exercise in accounting.

HON CHIEF MINISTER:

Mr Chairman, I cannot tell the hon Member how the Accountant-General was going to deal with this because the Accountant-General deals also with the accounts and the bookkeeping of Europa Incinerator Ltd. I suppose as we have not yet come to the end of the Financial Year, either of the Government or of Europa, I do not know if all of these decisions have been made. Certainly, the employees are employees of Europa Incinerator Ltd and certainly the Government are injecting into Europa Incinerator Ltd the money for the wages and the percentage management fee for the people that have always been there. The rest of it has got nothing to do with Europa. The contract with Lyonnaise is the Government. It is the Government's obligation to deliver water to Lyonnaise, not Europa's or indeed even In-Town before. Under the contract it is a Government obligation. The hon Member may think that the Chief Minister is wrong but what he transferred to In-Town was the benefit but not the obligations under the contract. I suspect the hon Member's memory may be failing him.

HON J C PEREZ:

I think the Chief Minister's memory is failing him.

HON CHIEF MINISTER:

Then he forces me to make a clarifying statement in the House since I cannot let the record lie as he has left it. I will make a clarifying statement in the House on the matter. But to deal with the question that the hon Member is raising substantially, the payments are being made by the Government, for the hiring of the boilers, for the running costs of the boilers et cetera. It is all an interim operation whilst the future of the incinerator is resolved, whilst the Lyonnaise distiller was built. It is an interim holding arrangement.

HON J C PEREZ:

The running of the boilers, has that been contracted by the Government to Lyonnaise or to another company?

HON CHIEF MINISTER:

Yes.

HON J C PEREZ:

By the Government to Lyonnaise, so the Government are paying for the hire of the boilers and Lyonnaise have installed and are running the boilers.

HON CHIEF MINISTER:

That is exactly how it works. It is actually being done on the ground by Lyonnaise but the Government are paying the cost. The £700,000 actually also includes the salaries of the employees in Europa. The £700,000 is not just the cost of hiring and running the new boilers. It also includes a provision for the cost of the salaries of the employees at Europa Incinerator Ltd.

HON J C PEREZ:

Is it that the employees that are idle in the incinerator as a result of the non-operation of the incinerator, have been transferred from there to run the boilers for this period? Or is it new people that have been recruited for the running of the boilers?

HON CHIEF MINISTER:

I do not know whether in addition they may be doing some very minor safety-related maintenance work on the refuse incinerator but all that they are engaged in is with the boilers. The incinerator plant itself is not operational and therefore they are engaged only in relation to the water production side which is based on these two boilers plugged in to the incinerator's desalination plant.

HON J C PEREZ:

So what we are saying is that part of the cost of the pay of the people in Europa is being charged to this new subhead (d) because they are involved in the operation of the boilers and would be deducted from the main area because if it is the same people either they appear twice or they must be charged differently?

HON CHIEF MINISTER:

Mr Chairman, I will have to come back to the hon Member. It is a very specific question and I would like to give him a factual answer. I will come back to him this afternoon on the telephone if we are not still sitting.

HON J C PEREZ:

Mr Chairman, on subheads 5 and 9 on electricity, can the Chief Minister say whether the whole increase is purely as a result of the increase in fuel prices or is it that accompanied with the increase of fuel prices there is an increase in generation as well? That is to say the level of generation has simultaneously increased and this is incurring or is the 40 per cent odd purely increase in fuel. On the second one we have already heard that part of the cost is for more electricity being bought from OESCO, but is this due to an increase in generation? Are we selling more electricity as well?

HON CHIEF MINISTER:

Mr Chairman, I understand this question to mean that the hon Member understands that we have bought extra electricity from OESCO so therefore I understand his question to mean has our own generating station also generated additional electricity.

HON J C PEREZ:

What I am saying is that on both counts, we are saying fuel has increased but other than the fuel increasing are we producing with both generating stations and selling the same electricity as last year which is costing us 40 per cent more or are we producing more electricity which would give the extra amount in fuel a different percentage per unit.

HON CHIEF MINISTER:

Mr Chairman, there is a small increase. There is a year on year increase in electricity consumption but the information that I have from the City Electrical Engineer is that the additional funds required is caused solely by the increase in fuel prices which means that he must have incorporated the projected increase in the original estimate so there has not been an increase above that increase which he projected and therefore both in respect of the projected increase and the original quantity there has been an increase in the price of fuel. There has not been more of an increase than was provided for in the estimate.

HON J J BOSSANO:

In relation to the last point that was made, is that true also of OESCO?

HON CHIEF MINISTER:

No.

HON J J BOSSANO:

So in the case of OESCO in fact the amount projected at the Budget in terms of the quantity of electricity purchased was less than what we have actually purchased, is that correct?

HON CHIEF MINISTER:

No, in the case of OESCO we have purchased around 3 per cent more electricity than was provided for in the Budget. That is worth £240,000 out of the £1.7 million that has been paid to OESCO.

HON J C PEREZ:

Have we reached the stage where the unit of electricity has come down as a result of purchasing more units from OESCO? There is a clause in the contract that lowers the price if the amount exceeds a volume.

HON CHIEF MINISTER:

Alas I understand that we have not reached that position and that the price is still on the upward trend of the graph. We are still in that part of the formula that takes it up.

HON J C PEREZ:

What formula that takes it up? The only formula that takes it up is fuel prices but not anything else. The same formula that has existed from the beginning.....?

HON CHIEF MINISTER:

The volumes have not yet reached the one that provides for a lower rate for the volume.

HON J C PEREZ:

Given that the last Annual Report of GBC tabled in this House in 1997/98 which was tabled in January last year, is the deficit accumulated over a number of years or is the deficit only in respect of the last year, in respect of the £260,000. Certainly, we have no way of knowing to what extent the projections of raising revenue by GBC have failed given that the information is

obviously not available. Given that it is £260,000, as I understand it for 1999/2000 and another £250,000 for 2000/2001, is it that the annual subvention will now increase by £250,000 every year given that the cost of employing people is there and people have already been employed and the expectations on the revenue side continue to be zero as the hon Member has indicated?

HON CHIEF MINISTER:

The way that the hon Member dealt with escalating costs at GBC when he was the Minister responsible was the introduction of a voluntary redundancy package which resulted in a reduction in the number of staff. It nevertheless does not detract from the fact that his instinct when he found himself in the same position as me was to cut people's jobs, not to take the extra cost of them on the chin. Whether we will pursue the same socialist inclination as the hon Member demonstrated at that time, the Government have not yet decided. What I can tell the hon Member now is that the Government are not willing to allow the cost of GBC to simply spiral upwards on an annual basis regardless of the commercial underlying position. The Government have been left with no alternative but to fund this because otherwise they will just run out of money. The Government funds GBC not against accounts but against cash needs. The Government have got no alternative, whilst GBC remains in its present format, but to fund. I think the fact that the GBC relaunch proposal has succeeded in delivering only the extra cost but not the extra revenue will certainly cause the Government to revisit the whole question of GBC's future. Of course, GBC has a future and a good future but whether it is a future in its present format or not I think needs to necessarily be revisited in the present financial circumstances.

As to the answer to the hon Member's first question, the £260,000 that was carried forward as at the end of March 2000 does relate to that financial year and I share the hon Member's view, implicit although not articulated, that the accounts of GBC are now well overdue. The Government regard it as a matter of concern. Of course, this is not a Government Department and the Government are not in a position to issue instructions. GBC is a statutory corporation, separate and independent of the

Government but funded by the Government. I can tell the hon Members that the Government are now extremely concerned about the delays in producing the accounts which I think at least reveal that there is a lack at GBC of the necessary accounting expertise sufficient in width and depth to enable all these issues to be dealt with. If this were an activity for which the Government had a direct hands-on responsibility then certainly we would have intervened long before now to procure delivery of the accounts. Having said that, there is something of a backlog in the Principal Auditor's Department which is now being resolved with additional resources. The hon Members will have noticed that there is some delay. There has been delay in the production of the Accounts of Gibraltar, there is delay in the tabling of the accounts of the Gibraltar Development Corporation and these are areas where we have to get on top of things. These accounts are taking too long to produce and to audit.

Head 4 was agreed to and stood part of the Bill.

HON MISS M I MONTEGRIFFO:

Mr Chairman, on the question of the contribution to the Gibraltar Health Authority, I have noticed under the Forecast Outturn for the GHA that there has been no money spent on student nurses when there was a provision of a figure of £180,000 provided in the Estimates. Could the Minister give an explanation about this?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

The answer is very simple. It was at the time the Estimates were prepared. The Health Authority were planning to account for the salaries of student nurses separately. They have now been submerged within the general Personal Emoluments salaries bill.

HON J J BOSSANO:

There has been no change in the revenue side then? The figure is still expected to be as in Question No 320 of 2001 which was

the same as in the original estimate of last year. In fact, the extra provision that is required is entirely expenditure driven?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

As far as we are best able to ascertain at this moment in time yes.

Head 5 Social Affairs was agreed to and stood part of the Bill.

Head 15 SUPPLEMENTARY PROVISION

HON J C PEREZ:

On the Pay Settlements I took note that the Chief Minister said that there might be some money left over given that the retrospection element of the allowances and so on had not yet been totally calculated, but can the Chief Minister say whether this covers the Pay Settlement for all non-industrials or are there still some groups of non-industrials pending which have not been taken into account here? And could he state whether this is the final settlement for 1999 and 2000 given the expectation in some quarters that the final settlement has not yet been reached in respect, at least, of the year 2000 as I understand it?

HON CHIEF MINISTER:

Mr Chairman, I cannot speak for expectations nor for other quarters. As far as the Government are concerned, as we have said publicly and privately to employees, we consider that the 1999 and 2000 Pay Awards are settled. Obviously there are always individual groups with separate pay claims, not annual pay review related, and there is the usual batch of those but I cannot think of any group of non-industrials that has not yet had a pay award for 1999 and 2000.

HON J C PEREZ:

So, for example, the Port Department and the Customs have already settled as well?

HON CHIEF MINISTER:

I have spoken of awards. I am not sure that everyone has accepted the award or has collected the award but certainly as far as the Government are concerned the pay awards that it is willing to pay for these two years is settled and on the terms that are already published. The Government will not offer more in respect of either the 1999 or 2000 Awards than that which has been offered, quantified and made available to staff.

Head 15 was agreed to and stood part of the Bill.

The Schedule was agreed to and stood part of the Bill.

The Long Title was agreed to and stood part of the Bill.

THIRD READING

HON ATTORNEY-GENERAL:

I have the honour to report that the Drugs Trafficking Offences Ordinance 1995 (Amendment) Bill 2001 with amendments; the Motor Fuel (Composition and Contents) Bill 2001; the Pollution Prevention and Control Bill 2001; and the Supplementary Appropriation (2000-2001) Bill 2001, have been considered in Committee and agreed to and I move that they be read a third time and passed.

Question put. Agreed to.

The Bills were read a third time and passed.

ADJOURNMENT

The Hon the Chief Minister moved the adjournment of the House sine die.

Question put. Agreed to.

The adjournment of the House was taken at 12.50 pm on Monday 26<sup>th</sup> March, 2001.

# GIBRALTAR

## HOUSE OF ASSEMBLY



# HANSARD

**30<sup>TH</sup> APRIL 2001**

(adj to 3<sup>rd</sup>, 4<sup>th</sup> May; 1<sup>st</sup>, 13<sup>th</sup>, 14<sup>th</sup> June, (Budget)  
5<sup>th</sup>, 23<sup>rd</sup> July)

REPORT OF THE PROCEEDINGS OF THE HOUSE OF ASSEMBLY

The Fifth Meeting of the First Session of the Ninth House of Assembly held in the House of Assembly Chamber on Monday 30<sup>th</sup> April 2001, at 3.00 pm.

PRESENT:

Mr Speaker ..... (In the Chair)  
(The Hon Judge J E Alcantara CBE)

GOVERNMENT:

The Hon P R Caruana QC – Chief Minister  
The Hon K Azopardi – Minister for Trade, Industry and  
Telecommunications  
The Hon Dr B A Linares – Minister for Education, Training,  
Culture and Health  
The Hon J J Holliday – Minister for Tourism and Transport  
The Hon Lt-Col E M Britto ED – Minister for Public Services,  
The Environment, Sport and Youth  
The Hon H A Corby – Minister for Employment and Consumer  
Affairs  
The Hon J J Netto - Minister for Housing  
The Hon Mrs Y Del Agua - Minister for Social Affairs  
The Hon R Rhoda QC – Attorney General  
The Hon T J Bristow - Financial and Development Secretary

OPPOSITION:

The Hon J J Bossano – Leader of the Opposition  
The Hon Dr J J Garcia  
The Hon J L Baldachino  
The Hon Miss M I Montegriffo  
The Hon Dr R G Valarino  
The Hon J C Perez  
The Hon S E Linares

IN ATTENDANCE:

D J Reyes Esq, ED – Clerk of the House of Assembly

PRAYER

Mr Speaker recited the prayer.

CONDOLENCES

The Speaker, the Chief Minister and the Leader of the Opposition expressed sympathy following the unexpected death of the Hon Lloyd Devincenzi and extended their condolences to the family.

CONFIRMATION OF THE MINUTES

The Minutes of the Meeting held on the 12<sup>th</sup> February 2001, having been circulated to all hon Members, were taken as read, approved and signed by Mr Speaker.

DOCUMENTS LAID

The Hon the Minister for Tourism and Transport laid on the Table the following documents:

1. The Air Traffic Survey 2000.
2. The Tourism Traffic Survey Report 2000.
3. The Hotel Occupancy Survey 2000.

Ordered to lie.

The Hon the financial and Development Secretary laid on the Table the Draft Estimates of Revenue and Expenditure 2001/2002.

Ordered to lie.



ANSWERS TO QUESTIONS

The House recessed at 5.50 pm.

The House resumed at 6.10 pm.

Answers to Questions continued.

The House recessed at 8.20 pm.

The House resumed at 8.35 pm.

Answers to Questions continued.

ADJOURNMENT

The Hon the Chief Minister moved the adjournment of the House to Thursday 3<sup>rd</sup> May 2001, at 3.00 pm.

Question put. Agreed to.

The adjournment of the House was taken at 9.20 pm on Monday 30<sup>th</sup> April 2001.

**THURSDAY 3<sup>RD</sup> MAY 2001**

The House resumed at 3.05 pm.

PRESENT:

Mr Speaker ..... (In the Chair)  
(The Hon Judge J E Alcantara CBE)

GOVERNMENT:

The Hon P R Caruana QC – Chief Minister  
The Hon K Azopardi – Minister for Trade, Industry and  
Telecommunications  
The Hon J J Holliday – Minister for Tourism and Transport

The Hon Lt-Col E M Britto OBE, ED – Minister for Public Services,  
the Environment, Sport and Youth

The Hon H A Corby – Minister for Employment and Consumer  
Affairs

The Hon J J Netto - Minister for Housing

The Hon Mrs Y Del Agua - Minister for Social Affairs

The Hon R Rhoda QC – Attorney General

The Hon T J Bristow - Financial and Development Secretary

OPPOSITION:

The Hon J J Bossano – Leader of the Opposition

The Hon Dr J J Garcia

The Hon J L Baldachino

The Hon Miss M I Montegriffo

The Hon Dr R G Valarino

The Hon J C Perez

The Hon S E Linares

ABSENT:

The Hon Dr B A Linares - Minister for Education, Training,  
Culture and Health

IN ATTENDANCE:

D J Reyes Esq, ED – Clerk of the House of Assembly

Answers to Questions continued.

The House recessed at 5.10 pm.

The House resumed at 5.25 pm.

Answers to Questions continued.

The House recessed at 7.05 pm.

The House resumed at 7.10 pm.

Answers to Questions continued.

## ADJOURNMENT

The Hon the Chief Minister moved the adjournment of the House to Friday 4<sup>th</sup> May 2001, at 10.00 am.

Question put. Agreed to.

The adjournment of the House was taken at 8.00 pm on Thursday 3<sup>rd</sup> May 2001.

## FRIDAY 4<sup>TH</sup> MAY 2001

The House resumed at 10.00 am.

### PRESENT:

Mr Speaker ..... (In the Chair)  
(The Hon Judge J E Alcantara CBE)

### GOVERNMENT:

The Hon P R Caruana QC – Chief Minister  
The Hon K Azopardi – Minister for Trade, Industry and  
Telecommunications  
The Hon J J Holliday – Minister for Tourism and Transport  
The Hon Lt-Col E M Britto OBE, ED – Minister for Public Services,  
the Environment, Sport and Youth  
The Hon H A Corby – Minister for Employment and Consumer  
Affairs  
The Hon J J Netto - Minister for Housing  
The Hon Mrs Y Del Agua - Minister for Social Affairs  
The Hon T J Bristow - Financial and Development Secretary

### OPPOSITION:

The Hon J J Bossano – Leader of the Opposition  
The Hon Dr J J Garcia

The Hon J L Baldachino  
The Hon Miss M I Montegriffo  
The Hon Dr R G Valarino  
The Hon J C Perez  
The Hon S E Linares

### ABSENT:

The Hon Dr B A Linares - Minister for Education, Training, Culture  
and Health  
The Hon R Rhoda QC – Attorney General

### IN ATTENDANCE:

D J Reyes Esq, ED – Clerk of the House of Assembly

Answers to Questions continued.

The House recessed at 12.20 pm.

The House resumed at 12.25 pm.

Answers to Questions continued.

## BILLS

### FIRST AND SECOND READINGS

#### HON CHIEF MINISTER:

Mr Speaker, I would just like to take the First Reading of any Bill other than the Finance Bill.

#### MR SPEAKER:

You are the Leader of the House.

## THE CRIMINAL PROCEDURE (AMENDMENT) ORDINANCE 2001

HON CHIEF MINISTER:

I have the honour to move that a Bill for an Ordinance to amend the Criminal Procedure Ordinance, be read a first time.

Question put. Agreed to.

### ADJOURNMENT

The Hon the Chief Minister moved the adjournment of the House to Friday 1<sup>st</sup> June 2001, at 10.00 am.

Question put. Agreed to.

The adjournment of the House was taken at 1.50 pm on Friday 4<sup>th</sup> May 2001.

### FRIDAY 1<sup>ST</sup> JUNE 2001

The House resumed at 10.00 am.

PRESENT:

Mr Speaker ..... (In the Chair)  
(The Hon Judge J E Alcantara CBE)

GOVERNMENT:

The Hon P R Caruana QC - Chief Minister  
The Hon K Azopardi - Minister for Trade, Industry and Telecommunications  
The Hon Dr B A Linares – Minister for Education, Training, Culture and Health  
The Hon J J Holliday – Minister for Tourism and Transport  
The Hon Lt-Col E M Britto OBE, ED – Minister for Public Services, the Environment, Sport and Youth

The Hon H A Corby – Minister for Employment and Consumer Affairs

The Hon J J Netto - Minister for Housing

The Hon Mrs Y Del Agua - Minister for Social Affairs

The Hon R Rhoda QC – Attorney General

The Hon T J Bristow - Financial and Development Secretary

OPPOSITION:

The Hon J J Bossano – Leader of the Opposition

The Hon Dr J J Garcia

The Hon J L Baldachino

The Hon Miss M I Montegriffo

The Hon Dr R G Valarino

The Hon J C Perez

The Hon S E Linares

IN ATTENDANCE:

D J Reyes Esq, ED – Clerk of the House of Assembly

DOCUMENTS LAID

The Hon the Financial and Development Secretary moved under Standing Order 7(3) to suspend Standing Order 7(1) in order to proceed with the laying of documents on the Table.

Question put. Agreed to.

The Hon the Financial and Development Secretary laid on the Table the following documents:

- (1) The Report and Audited Accounts of the Gibraltar Broadcasting Corporation for the year ended 31<sup>st</sup> March 1999.
- (2) Statements of Consolidated Fund Reallocations approved by the Financial and Development Secretary (Nos.6, 7 and 8 of 2000/2001).

(3) Statement of Improvement and Development Fund Reallocations approved by the Financial and Development Secretary (No.3 of 2000/2001).

Ordered to lie.

## SUSPENSION OF STANDING ORDERS

HON CHIEF MINISTER:

I beg to move under Standing Order 7(3) to suspend Standing Order 7(1) in order to proceed with a motion.

Question put. Agreed to.

## MOTIONS

HON CHIEF MINISTER:

I beg to move the motion standing in my name and which reads:

“That this House approves by resolution the making of the Pensions (Amendment) Regulations 2001”.

Mr Speaker, hon Members should have already received a copy of the draft regulations. Opposition Members are aware that the Government have a manifesto commitment to harmonise the rates of pension and gratuity as between industrial and non-industrial employees of the Government, which, as hon Members will know, there has always existed a fundamental difference, almost I believe since the inception of the Pensions Ordinance itself. The difference insofar as rates of pension and gratuity that mainly affects the rate of gratuity payable on retirement is that non-industrials get a much higher gratuity than industrials. The purpose of this amendment the Pensions Regulations affected by the Pensions Regulations (Amendment), is to eradicate discrimination that has existed for many years between the two. The reason why this House is considering this matter in resolution is that under the provisions of regulation 3 of the Pensions

Regulations, any proposed amendment to the pension entitlement of any officer, which has retrospective effect, shall be approved by resolution in this House before the regulation is promulgated. We are considering this in regulation, not because changes to the Pensions Ordinance requires the approval of this House, given that they are done by regulation, but because of the retrospective element in the proposed Regulation, which introduces or would introduce the approval by this House the change backdated to the 1<sup>st</sup> January 2001. It is that element of retrospection that requires that this House approve the proposed new regulations by resolution before they are promulgated by the Governor, the Pensions Ordinance still stands. I commend the motion to the House.

Question proposed.

HON J J BOSSANO:

Mr Speaker, given the rationale of the proposed new regulation, which is to presumably give equal treatment to both industrials and non-industrials, I wonder if what is being proposed does that in all cases. What we have before us says that an officer to whom regulation 5 or 27 applies, shall at the time of retirement after reaching the age of 60, be treated as if he were an officer in pensionable office. I wonder whether what is being done is sufficient to apply in cases, for example, where there is retirement on medical grounds, which would be something that happened before the age of 60. Would people retiring before 60 on medical grounds be paid at the rate applicable before changing the regulation or at the rate that would be applicable had they continued in service after the age of 60? The issues that we would want to examine are of that nature and arise out of the details of what the regulation precisely does in terms of whether it meets full equality between the industrials and non-industrials which I take it is the purpose of the exercise from what has been said in introducing the motion to the House. Obviously, we will be voting in favour and we accept that if the regulation requires that there is a need for a motion in order to make it applicable from the

1<sup>st</sup> January 2001, then that is fine. The substance of what is being done is in the regulation rather than in the motion itself.

HON CHIEF MINISTER:

Mr Speaker, although I am very happy for the opportunity to discuss with the hon Member even the substance of the motion, what actually this House is approving is the retrospective element, but that does not mean that we should not have a discussion, given that we have the opportunity on the substantive motion, which were it not retrospective, would be just an ordinary set of regulations published in the Gazette without the opportunity for debate arising. This is not equalisation of pension rights across the board, it is a first step in that direction. For example, it leaves unaddressed at this stage, the question of different retirement ages. There are many aspects of what would loosely fall into the definition of pension rights, which are not covered by this first step in the Government's policy towards harmonisation of industrial and non-industrial pension rights. This first stage only deals with the calculation of the pension and gratuity calculation entitlement on retirement. I do not know what the answer to the hon Member's question is specifically. The hon Member only raises one of many issues that he could have raised. The hon Member says the rationale is to give equal treatment, that is the Government's ultimate objective, to give equal treatment on all grounds in relation to pensions. This first step does not achieve that in respect of many items and that list of items may well include the one that the hon Member refers to. I do not know where the provision is contained for the extension of pension rights to people who retire on medical grounds. I presume it is in the Pensions Regulations somewhere and that therefore it would require amendment. This first step is limited, as I understand it, to the calculation of the position on retirement and work is already being done on all the other aspects or on many of all the other aspects of what would have to be harmonised if there was going to be genuine across the board harmonisation on all aspects. That will come in subsequent legislation. The Government have brought this regulation dealing with this aspect of the matter before the remainder because, as was contained in our manifesto

this aspect of it, there was an element of expectation and there were people who were wanting to retire or awaiting retirement and did not want to go in case they got left out just by a few months. The Government agreed with the Transport and Workers Union that the Government would introduce this aspect of it first to eliminate that anxiety on the part of the people and that it would be backdated to the 1<sup>st</sup> January 2001, which was the date that it was agreed would be reasonable in terms of expectations.

HON J J BOSSANO:

Can I just take a little bit further what I said earlier. I accept that there are a variety of other differences, but I have chosen to highlight this particular one because it seems that implicit in retirement on medical grounds, when people retire on medical grounds, they get something in terms of payments, which is a proportion of what they would get had they not been taken ill and had they completed their service. If one changes what one is giving them for full service, and one does not change what one gives them for medical rights, one is worsening the position viz a viz those who go because they get ill as compared to what it is at the moment, in the sense that they are not benefiting from the improvement that the others would get. Independent of any other changes that may happen, really the persons that retire on medical grounds, as the Chief Minister knows, exhaust their full pay and their half pay and go through a process where it is the Health Service doctors who finally decide that the person is unfit to carry on working. In those circumstances, it would seem that it would be worth examining whether – there are not many, we are talking maybe about half a dozen people in one year – that anybody caught out after January, there might be one person or there might be none, but I would urge the Government to see whether that can be taken care of rather than wait for the other changes that need to be taken.

HON CHIEF MINISTER:

Mr Speaker, certainly I am quite happy to ask the technicians working on this to look into that. The Government obviously

would not wish to bring about the result that the hon Member describes. I cannot agree with the hon Member's choice of words, that such people would be worse off than they are now. They simply would not have the new benefit extended to them, they would miss out on a new advantage, rather than be worse off than they are now. The Government would not wish to be held to this, but the Government do not believe that there has been any retirement on medical grounds since 1<sup>st</sup> January 2001, so this is something that could be done at any stage. If we find that when we do it there has been somebody that has retired before we do it, in those circumstances to avoid an injustice to that person, the Government would go retrospective at least to the date that catches the first person to have done so.

Question put. The motion was carried unanimously.

## BILLS

### FIRST AND SECOND READINGS

#### **THE CRIMINAL PROCEDURE (AMENDMENT) ORDINANCE 2001**

#### **SECOND READING**

HON CHIEF MINISTER:

I have the honour to move that the Bill be now read a second time. Mr Speaker, prior to dealing with the substance of the Bill, I beg to give notice that at Committee Stage I intend tabling two amendments to the Bill. The first concerns the Long Title, hon Members, will note that by error the Bill was published with two Long Titles. The correct Long Title is the second one. Therefore, I will propose to delete the first Long Title and substitute it for the second one. The second amendment concerns section 94 of the Criminal Procedure Ordinance. Clause 2 of the Bill amends, amongst others, section 94. I propose to insert a new sub-clause 5 and sub-clause 6 into new section 94 as amended by clause 2

of the Bill in order to make provision for situations where a witness is not able to attend for political reasons.

Mr Speaker, the Bill amends the Criminal Procedure Ordinance so as to facilitate the introduction of documentary evidence in criminal proceedings. The Bill is inspired by the following United Kingdom legislation, "the Criminal Justice Act 1988 at sections 23 to 28 and 30 and 31 and Schedule 12. Secondly the Police and Criminal Evidence Act of 1984 at sections 69 and 74 and Schedule 3 Part 2 and 3 and a final amendment that I will be moving is the deletion of section 94(1) which deals with the use in Gibraltar of overseas evidence, the reverse of the usual international co-operation. In other words, when we seek international co-operation abroad to obtain evidence to use in a court in Gibraltar, the reason why that has been deleted is that it will shortly be presented in the House as part of a wider Bill dealing with international co-operation in these matters, so rather than deal with overseas evidence for use in Gibraltar in this Bill, it will be dealt with in a Bill generally that deals with mutual legal assistance and which we hope to bring to this House. The provisions contained at 94(1) are identical to the ones that will be contained in that section of the new Bill. Section 94 provides for evidence to be admissible in documentary form in criminal proceedings subject to certain conditions. The conditions include the death, illness, absence abroad or disappearance of the witness, whether relevant statement was made to a police officer and the person who made it did not give oral evidence for fear or because he is kept out of the way. Those are the list of criteria required to be satisfied before documentary evidence could be admitted without the maker of the evidence coming to give oral evidence. Such documentary evidence is made available other than where there is an existing duty to exclude it. The amendment that I intend to bring is to avoid the situation where on a systematic basis evidence of Spanish officials who are not allowed for political reasons and because they are under instructions from their Government not to come to give evidence here because they do not recognise Her Majesty's sovereignty in Gibraltar or, if one believes the latest ruling of the Spanish Supreme Court, even the jurisdiction of the courts of Gibraltar in

Gibraltar, in order to prevent people who do not come to give oral evidence for that reason, that their written evidence should not be acceptable. Otherwise, what we have, the Government fear, is a situation where systematically, evidence adduced in Spain, for example from Spanish officers, accused people in Gibraltar would at least be in jeopardy of it being accepted in a court in Gibraltar, when the reason for the person giving the evidence not coming to Gibraltar is not that he is ill, that he is absent abroad or disappearance of the witness or that he is kept away through fear or because he has kept out of the way, the amendment is to make it perfectly clear that fear or kept out of the way, does not mean kept out of the way by superior order not to attend the jurisdiction of the court to give evidence for reasons that the superior order giver does not recognise the jurisdiction of our courts or British sovereignty in Gibraltar. I do not know if it has been circulated to the hon Members but that is the effect of that amendment.

Mr Speaker, the admission of documentary evidence by this section is limited by other provisions in the Bill. Firstly, there is a discretion in section 94C for the court to direct that the document should nevertheless not be admitted in the interests of justice. In other words, even if it does comply with the rules the court nevertheless has an overriding discretion not to admit it if in the opinion of the court the interest of justice requires it not to be admitted. Secondly, under section 94F(1B), the court retains all its existing powers to exclude evidence. The court always has an overriding power to exclude any evidence that it considers appropriate to exclude and that general power is not affected by anything contained in this Bill. This means that evidence will not be admitted if, for example, it seems more prejudicial or if it would have an adverse effect on the fairness of the proceedings. Thirdly, this section does not apply to police statements and witness statements prepared in contemplation of criminal proceedings so it will not be possible to admit first hand hearsay evidence where one is talking about a statement which has been put together as a police statement or a witness statement in contemplation of criminal proceedings. These are dealt with in section 94D, which provides that documents produced specifically for the purposes of criminal proceedings are generally not

admissible unless the court gives leave for them to be admitted in the interests of justice. Section 94A provides for documents that arise from trade, business, professional, occupational or official activity and which contain information supplied by somebody with personal knowledge of the relevant matters to be admissible in evidence in criminal proceedings. Documents produced for criminal proceedings or investigations may only be admitted where the conditions specified in section 94(2) or (3) relating to the availability of the witness to give oral evidence of the trial are satisfied. The restrictions in section 94C, D and F(1)(B), mentioned above, apply here as they do for the purposes of Section 94. Section 94B evidence from computer records replicate the contents of section 69 of the Police and Criminal Evidence Act of 1984, commonly known as PACE in the United Kingdom and is mentioned in section 24(1)(C) of the Criminal Justice Act of 1988. Schedule 3A of the draft contains provisions supplementary to section 94B. The essence of this section is that computer records are admissible in evidence provided that the court is satisfied of the reliability of the computer. Section 94C gives the court discretion in the interests of justice to exclude documents that would otherwise be admissible under section 94 and 94A and specifies matters to which the court must have regard in exercising its discretion. Section 94D provides as an exception to section 94 and 94A, that statements produced specifically for the purposes of pending or contemplating criminal proceedings or of a criminal investigation are not admissible unless the court gives leave for them to be admitted in the interests of justice. Documents prepared under section 94G Expert Reports or 94H Form of Evidence and Glossaries are not made admissible by this section. Section 94E enables copies of documents to be admitted in evidence in criminal proceedings in the same way as the original documents, whether or not the originals are still in existence. The documents or copies are to be authenticated in the manner approved by the court. The clauses of general application and that applies not only to documentary evidence permitted by sections 94 and 94A, but also to any other kind of documentary evidence, such as evidence from computer records admissible under section 94B. Section 94F and Schedule 3B contains supplementary provisions relating to the admission of

documentary evidence in criminal proceedings. Section 94G provides that written reports by experts shall be admissible in evidence in criminal proceedings where the person making the report gives oral evidence or with the leave of the court where he does not. Section 94H provides for the making of rules of court as to the furnishing of evidence in any form such as by way of charts or other visual aids. In other words, reducing the written evidence, the documents, into a form that makes it easy visually for it to be presented to the jury and understood by the jury to the use of glossaries, charts, pie charts, summaries and things of that sort, to help juries understand complicated issues, facts or technical terms. Section 94I is to be deleted for the reason that I have explained and finally clause 3 of the draft inserts a new section 92A in the Criminal Procedure Ordinance. This amends the law of evidence to enable proof of conviction on an offence by any court in Gibraltar or by a court martial outside Gibraltar to be adduced in criminal proceedings. That is not the conviction of the accused, it is the conviction of some person other than the accused. It is sometimes necessary to prove a charge against an accused person to be able to prove that somebody else has been convicted of something else. That is what this section is intended to achieve.

Mr Speaker, subject to any specific queries and questions which hon Members may have on the principles of the Bill, just to say that all of these provisions bring the law of Gibraltar on evidence in respect of the aspects of the law of evidence covered by this Bill, into line with what the law has been in the United Kingdom for many years and it is really Gibraltar playing catch up. It is important to do that for two reasons and this is why the Government accepted the policy when this proposal was put to us. Firstly, that it is important that the law of evidence keeps up to date with modern judicial process that develops. Secondly, it has to be borne in mind that the courts of Gibraltar closely follow judicial precedence established in English court rulings when interpreting the laws of evidence and when developing the law of evidence. The longer that our law remains different to the law in the UK, the more UK precedence and UK interpretation and UK judicial pronouncements, interpreting the law of evidence are not

relevant to Gibraltar, so that our courts lose that body of jurisprudence when seeking judicial assistance in the interpretation of the law of evidence. I commend the Bill to the House.

Discussion invited on the general principles and merits of the Bill.

HON J J BOSSANO:

Mr speaker, we will support the Bill. We agree that it is desirable to bring our law in this particular area up to the practice that has been developing in the UK and where we have fallen behind. What I would like to know is if there is anything here that does not fall into that category or whether it applies to everything that there is, because on the basis of that principal and on the basis of the rationale of the Government's decision for supporting it, we believe it ought to be supported. Can I just point out that I take it that the amendment that has been circulated, which says in section 94(1)(4) the words "addressed and" after the word "be" is because that has been superseded by what we have been told, which is that 94(1) is being deleted totally.

HON CHIEF MINISTER:

Absolutely.

HON J J BOSSANO:

I think that in deleting 94(1), the Government will need to make an amendment to a previous section which refers to 94I. It is in 94B, where it says "otherwise in accordance with section 94G, 94H or 94I below". If they look at 94D, they would need to move an amendment to take 94I out of there because it obviously would not exist anymore. Other than that we support the Bill.

HON CHIEF MINISTER:

Mr speaker, I am grateful to the hon Member for pointing that out. As he was saying so and as he made the point, I was picking the



page to see the section number to which he referred, I noticed that it also appears somewhere else, which suggests that there may be other areas and I wonder whether the House will agree that once we approve the deletion of 94(1) at Committee Stage, that we thereafter regard any references in the remainder of the Bill to 94I as typographical errors and that they can be expunged, notwithstanding that we do not identify each and every occasion by way of a separate amendment. I am grateful to the hon Member for what he has said in support of the Bill, just to reassure him that there is no home-made law here except the amendment that I propose to move.

Question put. Agreed to.

The Bill was read a second time.

HON CHIEF MINISTER:

I beg to give notice that the Committee Stage and Third Reading of the Bill be taken later today.

Question put. Agreed to.

#### **THE IMMIGRATION CONTROL ORDINANCE (AMENDMENT) ORDINANCE 2001**

HON CHIEF MINISTER:

I have the honour to move that a Bill for an ordinance to amend the Immigration Control Ordinance, be read a first time.

Question put. Agreed to.

#### **SECOND READING**

HON CHIEF MINISTER:

I have the honour to move that the Bill be now read a second time. Mr Speaker, the Bill forms part of a package containing

three Bills that we shall be considering at this sitting of the House. The other one being the Bill to amend the Import and Export Ordinance and the Bill to amend the Tobacco Ordinance. All of these Bills are intended to bolster the existing legislative framework dealing with certain undesirable aspects of the Tobacco trade and including what is commonly known as 'matutera' activity or at least its visible manifestations.

Mr Speaker, the Bill addresses a lacuna that exists in the existing section 11 of the Immigration Control Ordinance, which specifies entry points but not exit points from Gibraltar. The well known effect of this is that those jumping over the frontier fence usually at Eastern or Western Beach, but sometimes even in the middle of the frontier, actually are not committing any offence, because there is an offence of entering Gibraltar other than by the specified immigration control point but not of exiting Gibraltar other than by such a point. This Bill simply adds "and exit" to "entry" in that provision, thereby designating the same exit points as are designated entry points and making it an offence to exit other than by one of those points. It also clears up what I believe is an anomaly, even without the exit problem, the present very old wording says "that it shall be an offence for anybody to enter overland other than by the Immigration Control Post at Four Corners", but I suspect that that language must have originated before there was established a commercial gate, because there are people who lawfully enter Gibraltar other than by the Four Corners Immigration Post and that is, for example, the drivers of commercial vehicles, who enter Gibraltar via the commercial gate. That is why in the new definition of entry and exit points, we have defined the authorised entry and exit points by land to be the pedestrian or vehicular gates at the frontier and/or the commercial gates at the frontier but only at a time when the commercial gate is opened for authorised commercial traffic under the supervision and control of an immigration officer. That reading of the Bill brings to my attention a typeset error which would either have to be dealt with as a typeset error or as an amendment, as Mr Speaker might direct, the words "under the supervision and control of an immigration officer" relates only to 'b' and should be set as part of 'b' and not brought back to the margin in a way

which suggests that it applies to the whole of section 11. In other words, "and under the supervision and control of an immigration officer" qualifies the word when it is opened for authorised commercial traffic. I commend the Bill to the House.

Discussion invited on the general principles and merits of the Bill.

HON J J BOSSANO:

Mr Speaker, I think that in any case independent of the reason for doing it at this particular time in relation to the other Bills, it is a sensible thing to have control on exit as well as control on entry anyway on its own merits. Certainly we were puzzled by this business of "under the supervision and control of an immigration officer". I take it that this is being limited to where it is open to commercial traffic, because that is not something that is in the law at present. Having looked at the copy that the House has of the law, it does show that there was an amendment introduced to section 11, which says that "no person who seeks to enter Gibraltar overland, shall enter otherwise and through the Immigration Control Station established by the Government at Four Corners or at such other location as the Government shall by notice in the Gazette appoint", and for all I know, they may have appointed the commercial gate in 1985 when the frontier was opened. I would imagine that that provision would cater for that. I do not know but it certainly indicates that the point of entry is changeable by notice in the Gazette without the need to change primary legislation, according to this amendment. In any case, the exit or the entry does not have to be under the supervision and control of an immigration officer at the moment and if it is going to be in respect of people entering through the commercial gate and not through the other one, what exactly does it mean? Presumably the customs officer who is there supervising the entry of lorries is able to exercise supervision of the driver as well as the lorry. Does control mean that he actually asks for their passports? Control in immigration would suggest that it is asking people to show their passports when they come in and when they go out and is an immigration officer a customs officer, because it does not seem to me on the normal side, on the pedestrian gate.

It is not that we are now going to have somebody additional as an immigration officer on the commercial gate?

HON CHIEF MINISTER:

Mr Speaker, I had not been made aware of that amendment that he has read to the Ordinance, to the effect that at least since as far as entry points are concerned at present it is possible to designate others by regulation. In any case I accept that support for this Bill, given that it is a free standing Bill dealing with entry and exit, does not signify support by the Opposition Members for any other Bill which in the Government's mind may form a package. Without wanting to place that separation in jeopardy in the minds of the Opposition Members, there is a particular reason why in the case of the commercial gate it is necessary for it to be qualified so that it is only a legitimate exit point when it is opened for business and under supervision, because the commercial gate is physically isolated, it is at the end of the loop. If we were just to say that it is a valid exit point, then it is open to abuse, because people can say here is the commercial gate, it is a valid exit point I am jumping over or going through. The phrase "under the supervision or control of a customs officer, was not in the Government's mind designed to increase the passport checking regime beyond what it now is, but rather it was intended as part of the definition of commercial gate for these purposes, meaning not the commercial gate at any time of the day or night as a physical object, but rather the commercial gate when it was opened for business and manned because the commercial gate, as he knows, unlike the other gates, have an opening and a closing time. The pedestrian and vehicular gates do not and therefore there is no question of when it is opened for business or not opened for business. They are always opened for business. It is only in respect of the commercial gate that a distinction has to be made in describing it for these purposes depending upon whether it is opened or not opened for business. That is all the Government are trying to achieve here and we are not actually addressing any desire to impose any additional passport control at the commercial gate over and above that which exists at present.

HON J J BOSSANO:

I queried whether immigration officer and custom officer are interchangeable.

HON CHIEF MINISTER:

They are not interchangeable. Customs officers are not designated immigration officers and vice versa. Immigration officers are not empowered as customs officers.

HON J J BOSSANO:

The provision in the Ordinance is immigration officer, that is why I am asking. Is it that we are going to have an immigration officer that is not there now?

HON CHIEF MINISTER:

I will check on that before the Committee Stage. I do not know as a matter of practice whether there is any immigration supervision on entry. When the lorry driver turns up I do not know whether he actually shows anybody – I cannot imagine it would be the customs officer – whether Security and Immigration Ltd deploy one of their officers, I have been there on several occasions but I have never noticed the colour of the uniform of the person sitting in the little cubicle. It would not be the intention of the Government to inadvertently create an obligation for the deployment of a person there, additional to people deployed there now. Before deciding whether I wish to stick with this wording, “under the control of an immigration officer”, I would just like the opportunity to check that that is what happens at the moment. We are not trying to change what happens at the moment. I would not wish inadvertently to generate the need for the deployment of an additional person at that entry point. If for some reason that is not what is done at present, perhaps the driver is made to go to Four Corners. I am being advised in a way that I cannot fully recognise at the moment, that the position is that there is immigration control on entry at the commercial gate. In

any case, I would like to check it and put it formally on the record of the House in the way that I can disclose the source of.

Question put. Agreed to.

The Bill was read a second time.

HON CHIEF MINISTER:

I beg to give notice that the Committee Stage and Third Reading of the Bill be taken later today.

Question put. Agreed to.

#### **THE IMPORTS AND EXPORTS ORDINANCE 1986 (AMENDMENT) ORDINANCE 2001**

HON CHIEF MINISTER:

I have the honour to move that the Bill for an Ordinance to amend the Imports and Exports Ordinance 1986, be read a first time.

Question put. Agreed to.

#### **SECOND READING**

HON CHIEF MINISTER:

I have the honour to move that the Bill be now read a second time. Mr Speaker, this too is part of what the Government see as a package in relation to the suppression of the activities that I described earlier. One of the things that was done inadvertently as to the consequences given other practices that have arisen, that was brought about by the Tobacco Ordinance was, that when it repealed the various sections in the previous Import Ordinance one of the things that was inadvertently and as a consequence repealed was an old section that used to exist in the Ordinance that used to go something like, “it shall be an offence to export tobacco other than from the wall at Waterport”. In the

Government's judgement, the real purpose of bringing this Bill now is to create defences that will prevent or to assist preventing the practice whereby people throw goods, namely tobacco, over the frontier fence or through holes in the frontier fence. Given that there is at present nothing in our laws that limits the exportation by land, in particular at the frontier fence, it came to light in a recent judgement at the Supreme Court, that hon Members might have seen in the press, that actually there was no imputable offence by somebody who throws a carton of cigarettes or a bag containing many, over the frontier fence at any point in its length. In the Government's judgement, that is wholly undesirable and hence this Bill.

This Bill deals with the export of tobacco only, it makes provision for the export of tobacco only when it is exported by sea or air. That is section 91(1), where it says "except with the written consent and approval of the Collector, no one should export tobacco by sea except from a place where a vessel is berthed or anchored with the authority of the Captain of the Port, or as the case may be, the Queen's Harbour Master, or by air, from Gibraltar Airport. In other words, it is unlawful to export tobacco by sea or by air from any place in Gibraltar other than those two described in (a) and (b). Section 92 talks of exports by land and here we are not talking just about tobacco, whereas section 91 deals only with the export of tobacco by sea or air, 92 deals with exports without the qualification by land, therefore deals with all exports. It says that no person shall without the written approval of the Collector export or attempt to export tobacco or any other article or goods by land, which necessarily can only be over the frontier. Then it identifies the three places at the frontier fence where it is legitimate to export tobacco by land from and they are the same ones we have seen in the previous Bill. The pedestrian or vehicular gates at the frontier or through the commercial gate at the frontier when it is opened for authorised commercial traffic under the supervision and control of a customs officer. I better check the same point as the hon Member made before, whether the export function of the commercial gate is currently supervised by a customs officer or whether they take the view that exports are not supervised. I doubt if that is true because some exports

are subject to an export duty. This obviously is to prevent primarily tobacco from being thrown over the frontier fence or through holes at the frontier fence or around the edges of the frontier fence, at the beaches. The reason why it is not limited to tobacco is that if somebody throws a carrier bag over the frontier fence and then gets detained, it is too late for anybody to prove or see whether the bag contained tobacco, because the bag will be on the other side, outside of the jurisdiction of our law enforcement officers. Therefore it will be completely ineffective. If this were to read that no person shall export tobacco other than by these places, then people could stand throwing carrier bags, custom officers and police officers could not know what is in the bag and therefore it would be a completely ineffective tool to prevent what is desired. I cannot think of any legitimate bona fide purpose through which any citizen not engaged in some undesirable activity would wish to throw any article over the frontier fence. Therefore, Mr Speaker, the Government are satisfied that widening this to include all articles and not just tobacco, to prevent the problems that I have just described, does not cause any unreasonable impediment on the lawful activity of any bona fide citizen. I commend the Bill to the House.

Discussion invited on the general principles and merits of the Bill.

HON CHIEF MINISTER:

Mr Speaker, there is one important point of principle of the Bill that I have not alluded to by oversight. That is that this Bill on second and subsequent convictions for throwing over the fence creates mandatory sentences. That is not new. We did it in the Employment Regulations, the hon Member will remember for the fines, but it is not yet so established in our legislative procedures in Gibraltar to be unworthy of mention at the second stage of the reading. The hon Members will see that this applies only to the throwing over, not to the air and sea bit, which is 92. Hon Members will see in section 92, sub-section 2, that a person who contravenes sub-section 1, that is throwing over or through holes in the fence, shall be guilty of an offence and shall be sentenced on summary conviction to a fine at level 4 on the standard scale

or in default three months in prison. The usual wording would be "shall be liable to sentence", which leaves it to the discretion of the court. This formula does not leave it to the discretion of the court. It is a mandatory minimum sentence and in respect of second and subsequent convictions, the mandatory sentence is even stiffer. A person who is convicted of an offence under this section, having been previously convicted of an offence under the section, shall be sentenced on summary conviction to three months imprisonment.

HON J J BOSSANO:

Mr Speaker, if I can deal with the last point first. My reading of the Bill is that the mandatory sentence is not just in respect of people throwing things over the fence under section 92, but also under section 91, because in 91(2) it says "a person who contravenes sub-section 1 shall be guilty of an offence". Sub-section 1 of section 92 is the one that creates the offence by saying "all persons shall without the written approval export". The mandatory comes in in sub-section 2 and sub-section 3 of 92. I understood the Chief Minister to say that the mandatory element was being introduced in respect of export by land.

HON CHIEF MINISTER:

That is correct.

HON J J BOSSANO:

What I am saying is it also introduces it in respect of exports by sea and by air. My reading of 91(2) on the first page of the Bill is that it says "a person who contravenes sub-section (1)", which is exports from any place by sea or by air, "shall be guilty of an offence and shall be liable....."

HON CHIEF MINISTER:

Shall be liable.

HON J J BOSSANO:

So the liable means that it does not have to be?

HON CHIEF MINISTER:

Absolutely. Mr Speaker, that is the standard wording in all criminal offences in Gibraltar. The importance is the absence of presence of the word 'liable'. "Shall be sentenced" is mandatory. "Shall be liable to be sentenced", means discretion.

HON J J BOSSANO:

The other point I wanted to raise in relation to the explanation that has been given is the question of exports. I do not think in the Ordinance we have got a definition. Is there a quantity attached, a volume, to make something an export? What I am concerned about is that we should not inadvertently because of the wording of the thing be creating offences where none are intended. Can I also just draw the attention that section 91 was repealed by Ordinance 34 of 1997, but section 90 was repealed by Ordinance 10 of 1993 and consequently the existing Ordinance cannot be amended by inserting something after section 90 because section 90 is no longer there. If there has been it is not reflected in the copy that the House has of the laws, assuming that this is up to date.

MR SPEAKER:

The laws are up to date but do not assume anything.

HON J J BOSSANO:

The third point is that given the fact that the Government have now decided to introduce the mandatory element in respect of 92(2), have they given further consideration to the issue of where people obstruct officers involved in enforcing the law, because when the matter was introduced in the House in 1999 in an Ordinance, amending the Tobacco Ordinance 1997, we raised

why was that obstructing a labour inspector was considered to be something that ought to be discouraged by having mandatory fines and this was not the case in respect of people who were challenging individuals suspected of being involved in tobacco smuggling. At the time the Government said that they were not ready to move down that road yet, but they were certainly willing to revisit the issue if they felt there was a need to extend it to other areas given that this was the first time, I think it was in the same House we were doing both pieces of law and I asked why was it being done in one and not in the other. The answer that I got from the Government was that they would consider doing it at a later stage if they took the decision to extend the principle of mandatory fines to other areas. Given that we are doing it now in this law in respect of people throwing things over the fence, have they given any further thought to the proposition that was put to them in 1999?

HON CHIEF MINISTER:

Mr Speaker, I will check whether when the Imports and Exports Ordinance were amended, as the hon Member says, the amending instrument contained the usual provision which introduces consequently numbering of paragraphs so that even though the then section 90 was eliminated by the process of consequent renumbering, something else takes its place. If it has not been, perhaps we can consider that also to be something that can be put right when the Bill, as passed, is published. On the more substantive points there is no definition of export, and it has to be borne in mind that to the extent that there has been the practice in recent months, although it has been curtailed in the last few weeks, I do not know if the hon Members have noticed that as an interim stop gap, we have published a regulation to a very similar effect in the Gazette two weeks ago using a power that exists there. It is better that a law of this sort be contained in primary legislation. When the practice was more prevalent what was being thrown over was scrupulously quantities which were below the commercial quantity and they were very clever. They would go there with their five cartons minus one cigarette or whatever is the definition of commercial quantity and they would

toss it over and say to the customs officer, what am I doing wrong? Following the judgement or following the report in the press of this judgement of the court that said that there was no offence of throwing anything over the fence, if there was no offence of throwing something over the fence and they were only in possession of a legitimate quantity of tobacco and that is the quantity that they were throwing over, they were committing no offence. It is not the intention that this should only apply to more than certain quantities. I do not know of anybody who is a bona fide citizen that throws any quantity of cigarettes over the frontier fence. The word export simply means removal from Gibraltar. Theoretically when one travels abroad as a private citizen, anything that one takes in ones suitcase is an export.

HON J J BOSSANO:

Does that mean that no person may take a suitcase out of Gibraltar without the written approval of the Collector by land?

HON CHIEF MINISTER:

No person may throw a suitcase over the frontier fence. This is not an absolute prohibition against exports. It is an absolute prohibition of exports except through the pedestrian gate, the vehicular gate and the commercial gate. One cannot throw suitcases over the frontier fence.

HON J J BOSSANO:

I am not talking about throwing anything over the fence. I am talking about the written approval. It says, if one is doing the legitimate thing, which is going out through the vehicular gate, one needs written approval. What does that mean?

HON CHIEF MINISTER:

The hon Member is clearly not reading the section properly. I will read it for him. "No person shall, without the written approval of the Collector, export or attempt to export tobacco or any other

## THE TOBACCO ORDINANCE 1997 (AMENDMENT) ORDINANCE 2001

HON CHIEF MINISTER:

I have the honour to move that a Bill to amend the Tobacco Ordinance, be read a first time.

Question put. Agreed to.

### SECOND READING

HON CHIEF MINISTER:

I have the honour to move that the Bill be now read a second time. Mr Speaker, this is the final piece of the three Bills that the Government in their own mind see as a package. It amends the Tobacco Ordinance and the aim of the Bill is to eliminate certain practices, which are both unsightly spectacles, are a nuisance to passers-by and which also tarnishes Gibraltar's image with visitors to Gibraltar. The Bill fundamentally gives the power to the Chief Minister by notice in the Gazette to declare any part or parts of Gibraltar to be, what are called, a special zone. Then it goes on to say what would apply within any zone which is so designated as a special zone, the measures that would apply within any such zone and clearly it is the Government's intention to declare the frontier area such a special zone.

The measures that would apply within such zones are the following. Firstly, for the purposes of the special zone only, the amount of tobacco that constitutes a commercial quantity is reduced from 2,000 to 600. Secondly, a new offence is created only within the special zone of requesting a person to take tobacco across the border for oneself. The hon Members will be aware of the undesirable practice which arises whereby these organised traffickers of tobacco stand in that part of our territory between the frontier and usually the airport terminal, asking passers-by, usually, but not exclusively, tourists to please take this carton of cigarettes across the border for them. That will be

article or goods by land other than through a, b, and c". Therefore one does not need anybody's permission to export anything through a, b, and c. A, b, and c being the three channels by which any bona fide person would wish to try to export anything from Gibraltar. I have never come across anybody, they might have done it when the frontier was closed, certainly I remember standing at the frontier gates and watching people shouting through megaphones across the border. I have never seen anybody that we would regard as a desirable citizen throwing suitcases over the frontier fence. I think there is an omission in this Bill, given that there are mandatory sentences, which I will actually now on reflection like to correct by an amendment on which I have not given notice, because the omission has only just struck me. That is that given that the sentences for convictions are mandatory and that upon a second conviction what is mandatory is a term of imprisonment, I think it is desirable to introduce into the Imports and Exports Ordinance, at least in respect of this section, that saving protective provision that there is in the Tobacco Ordinance, that says, "No prosecution may be brought under this section without the formal written consent of the Attorney General". Obviously, the citizens at large can rely on the judgement of the Attorney General to deploy these tools only against those people for whom it is intended. Therefore I will be moving at the Committee Stage a section that will read that "no prosecution under section 92 of this Bill may be brought without the written consent of the Attorney General".

Question put. Agreed to.

The Bill was read a second time.

HON CHIEF MINISTER:

I beg to give notice that the Committee Stage and Third Reading of the Bill be taken later today.

Question put. Agreed to.

an offence punishable by a mandatory sentence of a level 2 fine. I do not know if the hon Members remember what the level of the actual cash amount of these levels were. I can never remember so I am now taken to carrying around papers that say so. Level 2 is £200 or in default imprisonment for 14 days. That is for asking a passer-by to take tobacco across. Also, thirdly, within the special zones only a police or a customs officer will have the power to ask people to move on, just to move out of the zone just to prevent swarming and accumulation of 'matuteras' basically, that is the idea, will simply have the power to ask people to move on out of the zone if they believe that the person's presence in the zone is primarily related to the exportation of cigarettes by land.

A further provision of the Bill and this last one is of general application and is not limited to the special zone is to try and curtail the practice, which is prevalent usually in certain of our streets, not in all of the streets, usually in those streets where there is an accumulation of shops that sell tobacco, whereby people, not necessarily women, stand in the public highway stuffing tobacco underneath their clothes as a proprietary act of concealment. In the Government's view this is an unsightly spectacle which Gibraltar's modern day image – I say modern day image because I have in my house hanging an 1850 print of Gibraltar and it is marked "Las Matuteras at Gibraltar", and it is a print precisely of a lady doing what we are now seeking to curtail. This was in what was then the neutral territory in preparation to passing into Spain, so I am careful to describe it as Gibraltar's modern day image requiring this practice to be curtailed, given that it appears to be steeped in our history. It would be an offence to do that but only in a public place. Let us be clear, this is not about preventing people from hiding cigarettes. If people want to go into their homes or lock themselves up in a bathroom or somewhere out of sight and hide things under their clothes, that is a matter for them. This seeks to eliminate the public spectacle of it being done in public and avoid having people standing in a cluster stuffing things up their clothes. That is the visual spectacle that it is sought to eliminate. Sub-section 3 makes it clear that it does not apply when the act of concealment takes place in a place that is not a public place. Walking around

the streets with cigarettes stuffed all under ones clothes is not an offence, what is the offence is the actual standing in the street doing the stuffing, let us be clear. In order to minimise the possibility that this section may affect what we would all regard innocent people who are not the intended objects of this offence, it does not apply to less than 60 cigarettes. It is conceivable that if the hon Members were smokers they might with the cigarettes that they had on them – I remember when I was a younger man and I used to smoke cigarettes in an orange box, it used to be the fashion to carry them stuffed here in the belt of the trousers. Therefore, the reason why sub-section 2 excludes this section from application to less than 60 cigarettes, is so that when the ordinary citizen buys a few packets of cigarettes and puts them wherever he might want to put them, not as a systematic act of systematic tobacco trafficking that he should not feel that he is caught by this offence. In any event, these are amendments to the Tobacco Ordinance. There is a general section in the Tobacco Ordinance that requires the consent of the Attorney General to all prosecutions for all offences under the Tobacco Ordinance, therefore including these new ones. I commend the Bill to the House.

Discussion invited on the general principles and merits of the Bill.

HON J J BOSSANO:

I do not think we can support this because we do not like this idea of the establishment of special zones or particularly that the decision should be a political one, and that it should be, as the law says, possible to do that in any part of Gibraltar. If we are talking about people congregating around the frontier in order to importune tourists asking them to take cigarettes, why is it that we need to have a law that allows Europa Point to be declared a special zone. There is no restriction. The special zone power seems to be drawn too widely. We support what the Government are trying to do and we support the argument that has been put as to what they want to achieve, but we think the drafting of 11A is without limit. The Chief Minister may by notice in the Gazette declare any part of Gibraltar to be a special zone for the purpose



of this Ordinance. We think that goes further. We are not saying it is going to happen, but as Government Members used to say when in Opposition, when we used to bring legislation to the House, "it may not be the present administration's intention to do it, but you are creating the ability to do it". Really, that is the part that concerns us, I think also in the case of the movement of people out of the zone where an officer can say to somebody that he needs to go, and then if he refuses to comply with the directions, he is guilty of an offence and shall be sentenced to a fine, it is conceivable that that could lead to situations where somebody might say, "I am not moving because it is not true that I am here primarily to try to export cigarettes". There seems to be no safeguard because it is enough that the enforcement agent, the police or the custom officer, believes it and that is it, the person has got to move whether there is any justification for that believe or not. Presumably, he is saying that we would then need to persuade the Attorney General that the believes of the customs or the police were not justified by anything that person was doing or anything that person had done in the past or any previous conviction or anything else. I do not know if it is possible to qualify the requirement that an officer should believe that that is the intention in some way so as to make it capable of being questioned. I think in some legislation people have got to have reasonable grounds for believing something and I wondering whether something ought not to be there for persons who may - I can well imagine somebody getting very upset about being told to move around that area if he is there in the normal course of his business or life or waiting to cross into Spain, he has never had anything to do with tobacco export, he has no intention of doing it and somebody comes and tells him to move. What does that person do? There is nothing he can do. If he is not able to persuade the officer concerned and he refuses to move, he is got to plead guilty to the offence because it does not seem to me that there is any way out. Therefore, I would like some thought to be given to that.

HON CHIEF MINISTER:

Mr Speaker, these are extraordinary problems, they are extraordinary activities which require extraordinary measures, which would not normally be contemplated in Gibraltar. The things that we are trying to eradicate and which we are grateful for the hon Member's support, in seeking to eradicate, are things which are being done by people who are in the first instance and prima facie, ordinary law abiding citizens doing things which are not normally regarded as offences. At the end of the day what is a 'matutera'? She is an ordinary Spanish citizen who comes into Gibraltar usually loosely clad in chiffon dresses to facilitate the concealment of the tobacco, who comes to Gibraltar to purchase tobacco. The only objectionable aspect of it, is the organised systematic way in which it is done, which results in a visible spectacle. In principle, it is no different to the ordinary tourist that comes into Gibraltar to buy things because they are cheaper, goes to Main Street wearing his Lacoste T-shirt and his Ralph Lauren trousers, buys cigarettes. When one is trying for extraneous reasons to, by the use of the criminal law eradicate behaviour which, in principle, is not objectionable, what is objectionable is the way it is being done, it is not possible to do it to achieve it by ordinary measures. These are extraordinary objectives to deal with extraordinary circumstances and activities that need to be eliminated and that can only be achieved by extraordinary measures. The Government make no secret of that.

I hear what the hon Member says but do not agree with this business, he has some difficulty with the fact that I am free to designate other areas and not just the frontier. The reason for that is that at the moment our intention is only to designate the frontier fence, but we do not know whether this activity is going to migrate to other places. I do not want to have to be coming to this House saying, "Now I want to designate the area of the Sundial", and, "Now I want to designate the area of the Waterport roundabout", because in order to get around these measures, the people doing these things simply migrate somewhere else. For example, take the question of harassment to passers-by. At the

moment this has only ever been done at the frontier fence because they hope to catch the uninformed tourist of the aeroplane going into Spain who does not know what a 'matutera' is or what the tobacco situation is. At the moment they are doing it and historically they have only done this between the air terminal and the frontier fence, I suspect for the reasons that I have just speculated. Perhaps when we do this, they might move to Winston Churchill Avenue and start asking tourists there or anybody there. The idea of it is simply that the Government can apply this legislation and follow the problem wherever it goes. I do not suppose that they will ever get to Europa Point, to use the hon Member's extreme example. If the Government were not acutely conscious of the need to minimise the impact of this new law, we could have drafted the Bill applying it to the whole of Gibraltar. We need not have created the concept of the special zone. If we were minded to be liberal in the application of this legislation, as opposed to being minimalist in the application of this legislation, there was no need for the creation of special zones, it could have just been a law of general application to the whole of Gibraltar. Therefore, I do not think the hon Member should assume against the Government or any government that it would wish to use this for any other purpose.

I have to say, that I am often surprised by the circumstances in which the hon Member takes exception to decisions being made by politicians. The hon Member says that he does not like that the decision to establish a special zone should be a political one, well, this is an intensely political problem, for which the elected Government of the day are held accountable, both by the public at large and by the Opposition, for things that he would prefer to be in the discretion of an official, who is neither accountable in this House nor accountable to the people, nor transparent in his decision making process, nor sackable by the people if he abuses his power. I honestly do not understand the new found concern that the hon Member harbours for decisions being made by the people elected by the people of Gibraltar on a hireable and fireable basis, to make important decisions. Frankly, if I were a citizen and felt that this law was unusual but necessary, I would feel comfortable knowing that the decisions were being made by

somebody who at least I can remove from Office, if he abuses his power, as opposed to some official who is there for life and who is not completely transparent, unaccountable and unremovable. I honestly do not understand. If the hon Member were to say, "I do not think the decision should be a political one", meaning that the Government of the day should not make decisions in this or any other area, which are politically partisan, in other words, that they are motivated by political prejudice or by political favour or by political advantage or by political preference in the partisan sense, then I can see that it is advantageous that decisions of that sort should, where possible, be made by officials, who are much less likely, let us leave it as much less likely, to be guided by the political consideration. Certainly, something which is of this nature of which there is no partisanship, such decision should be made by the elected Minister, who in any case, if he is going to be held accountable in this House for the consequences of the behaviour that this law is applying, I have to say that I am surprised that the hon Member, who has always been so assertive about the need to modernise Gibraltar as a political and constitutional scene, should so systematically take objection to decisions being made by the democratically elected representatives of the people of Gibraltar.

Mr Speaker, he has said about the power to ask to move on that it is all in the judgement of a police officer. That is true. I acknowledge that the comments that the hon Member makes are correct, but in a sense, although not to this extent, the citizen is always exposed to the abuse of power by people that society endows with enforcement powers although eventually one might get acquitted by a court, but a law enforcement officer that wishes to abuse the powers that society endows him with, is perfectly free to make people's life a misery without the need for this, just to be arrested and to be charged and to be held without bail in a prison cell for any offence. The Government do not make laws on the assumption that law enforcement officers are going to abuse it. The mechanism that is being introduced to protect society against that residual possibility of abuse, which the hon Member felt derived mainly from the lack of defence in the way the offence is formulated, is precisely the fact the Attorney General has to

approve the prosecution and that he presumably requires to see before making a decision, the evidence, the statements, the facts, the circumstances, the reaction of the accused and it is the Attorney General and not the police officer that did the original shooing away, that will decide whether in those facts and in those circumstances it is appropriate to bring a prosecution. Government believe that the Attorney General who is non political, as the Director of Public Prosecutions, he is the ideal person to ensure that ordinary law abiding citizens are not made the victims of the offences through abusive power by law enforcement agencies.

Mr Speaker, I think I have covered all the points that the hon Member made. In relation to the last one, sure we gave consideration to the points that the hon Member has made. We toyed with the formulas such as reasonable grounds to believe. They made the provisions ineffective because the officer then has to prove the basis upon which he has reasonable grounds to believe. If it is that he actually asked somebody - this is in effect the agglomeration factor. If there is a group of 15 chiffon clad ladies loitering as they tend to loiter behind the Customs social/training facilities there where the old Guard House used to be, what reason does the officer have if one puts a legal threshold, how can the officer prove that he believed on reasonable grounds that these ladies were there primarily to conceal tobacco but the reality is that we all know who they are and when they are and where they are. That is why, on the assumption that the hon Member does not assume any inclination, which I do not suggest to him that he was assuming or attributing to law enforcement, but accepting the case of premeditated abuse of this power is pretty difficult for a bona fide law enforcement officer to take aim at an unintended object of this law. The reality of it is that as we all walk around the area, we all know who we are talking about.

HON J J BOSSANO:

Will the Chief Minister give way? The law does not say where a police or customs officer believes that the chiffon clad lady is

loitering in the area. It is any person. Therefore, what we are saying is, if the Chief Minister declares the area between the airport and the frontier to be a special zone, anybody in that area can be told to move out. That is an extraordinary measure, he recognises that it is an extraordinary measure, and let me say that I consider the difference between the political decision and the technical decision of the Commissioner of Police or the Collector of Customs or whoever, would be the appropriate person to decide, is that I think the political decision is the policy of creating the power to have special zones, but where the line should be drawn on the special zones is not a political decision. Surely even if the Chief Minister signs a piece of paper, he would need to ask whoever was doing the job where he wanted the special zone to end or begin. At the end of the day, it is going to be a decision taken by an official anyway on whose recommendation presumably the political approval would be given, so I do not know why he makes such a big song and dance about being politically accountable or not being politically accountable. It is just that we are passing laws which anybody outside Gibraltar looking at these laws would see that what we have created is the power to say that anywhere in Gibraltar at a stroke of a pen having, for example, three cartons of cigarettes in one's house becomes having commercial quantities of tobacco, just like that. This is what this does. It may not happen but the law says it can happen and if it does happen, then people suddenly find themselves committing criminal offences which they had no intention of committing and they did not even know they were going to be committing.

The purpose of the exercise of debating the general principles of the Bill in this House is to point out precisely pitfalls like this which is part of the job we are paid to do here. That is why we are doing it. In the context of the special zone, I accept the point that what is being attempted is a difficult thing to achieve in practice and that therefore there is no easy way in which to do it, but nevertheless, the point is that the law does create that power and let me say that given that reference has been made to the decision that there was in the Supreme Court where the ruling was made that there was no offence being committed currently by

somebody chucking something over the fence. It so happens that the person involved in that case pleaded not guilty and stated in court that he had not thrown anything over the fence. That issue was not ruled upon because the judgement was that even if he had thrown it, it would not have been an offence and there was no case to answer, so the issue whether he had thrown it or had not thrown it did not enter into it. If an officer believes a person to be loitering in that area for the purpose primarily related to the exportation of cigarettes, then that officer says to that person, "you move now". We have seen other countries being able to have citizens told to move because they were in uniform and the citizen having no recourse to protection against arbitrary use of power. I do not think we have ever had this kind of law anywhere else. We mean to be on guard against using a sledge hammer to crack a shell and in the process introducing into the statutes of Gibraltar laws which on paper and on the surface are creating a regime which allows almost anybody to do anything if they should be so minded to do it. It is not what the Government want to stop that worries us, it is the law that we are debating today in the House in the way that it is formulated that worries us.

HON CHIEF MINISTER:

Mr Speaker, the Government reject the very colourful and unhelpful imagery that the hon Member has sought to surround this Bill with. The hon Member, I believe, seeks to find objections to things even of which he claims to approve. He claims to approve the objective, he claims to recognise that it is an unusual problem requiring unusual solutions, but then nit-picks with the way it has been done, which to my mind, brings into question whether he really subscribes to the first two things that he has claimed to subscribe to. Secondly, I believe that the vast majority, not to say the whole of the community out there, understands what the Government are trying to achieve, agrees with the Government that it should be achieved, trusts the Government to do it properly and is not going to be persuaded by the hon Member to believe that Gibraltar has been converted into Nigeria. That is what I believe. I have only heard one voice raised against this Bill. It is the systematic pro GSLP letter writer in the columns

of the Gibraltar Chronicle, who never approves of anything that the Government do and systematically disapproves of everything that the Government do, and the Government certainly do not regard that gentleman's opinions as being a yardstick of anything except his opinions.

Therefore, Mr Speaker, one of the advantages of giving these powers to politicians, as opposed to how they do it in Nigeria, is precisely the fact that if the electorate believes that we have done something terribly serious, terribly wrongly, they have got the ability to do something about it. How can that be compared to Nigeria. Therefore, I believe that the hon Member's rather pedantic approach to this issue, will not be recognisable to the average citizen. I would go one little step further, Mr Speaker. In the unlikely event that the people of Gibraltar should conclude that they need their civil liberties protected against the tendencies of this Government, it is unlikely that they would choose the hon Member as their champion in that defence.

Question put. The House voted.

For the Ayes: The Hon K Azopardi  
The Hon Lt Col E M Britto  
The Hon P R Caruana  
The Hon H Corby  
The Hon Mrs Y Del Agua  
The Hon J J Holliday  
The Hon Dr B A Linares  
The Hon J J Netto  
The Hon R R Rhoda  
The Hon T J Bristow

For the Noes: The Hon J L Baldachino  
The Hon J J Bossano  
The Hon Dr J J Garcia  
The Hon S E Linares  
The Hon Miss M I Montegriffo  
The Hon J C Perez  
The Hon Dr R G Valarino

The Bill was read a second time.

HON CHIEF MINISTER:

I beg to give notice that the Committee Stage and Third Reading of the Bill be taken later today.

Question put. Agreed to.

**THE GIBRALTAR HERITAGE TRUST ORDINANCE 1989  
(AMENDMENT) ORDINANCE 2001**

HON K AZOPARDI:

I have the honour to move that a Bill for an Ordinance to amend the Gibraltar Heritage Trust Ordinance 1989, be read a first time.

Question put. Agreed to.

SECOND READING

HON K AZOPARDI:

I have the honour to move that the Bill be now read a second time. This is a short Bill. It is an interim measure. The House has been told on occasions by me, that the Government are reviewing the Heritage Trust Ordinance with a view to presenting principal legislation to this House of a substantive nature later in this session. In the meantime we have reviewed the mechanism for the exportation of antiquities as an interim measure which we have found necessary in our discussions with the Trust, I have explained to the hon Member who shadows this responsibility what are the precise reasons behind this Bill and I do not propose to go into this in detail. I commend the Bill to the House.

Discussion invited on the general principles and merits of the Bill.

HON DR R G VALARINO:

I thank the Minister for his explanation. The reason behind this Bill has been explained to me and Opposition Members will be voting in favour of the Bill.

Question put. Agreed to.

The Bill was read a second time.

HON K AZOPARDI:

I beg to give notice that the Committee Stage and Third Reading of the Bill be taken later today.

Question put. Agreed to.

**THE EDUCATION ORDINANCE (AMENDMENT) ORDINANCE  
2001**

HON DR B A LINARES:

I have the honour to move that a Bill for an Ordinance to amend the Education Ordinance, be read a first time.

Question put. Agreed to.

SECOND READING

HON DR B A LINARES:

I have the honour to move that the Bill be now read a second time. Mr Speaker, this Bill is a housekeeping exercise. Members of the House are aware that in November 1997 matters pertaining to training, as defined in this Bill, were transferred from the Employment and Training Board to the Department of Education. The present Bill is intended to establish de jure what has been de facto for sometime since 1997. Since then and at an operational level, all these matters and activities pertaining to, as the Bill

defines, the provisions in respect of training of different kinds and for different categories of persons, have been administered by the Education Department, may I say, with extraordinary success. I would like to therefore at this point to take the opportunity of putting on record the impressive achievement in this field obtained by officers in the Education Department of the Training Unit to develop a wide ranging programme of training and skills development across the board from industrial crafts to professional courses.

The present Bill is a housekeeping exercise to establish by statute the Government's decision in 1997. It is part of a package together with Bill No.15 of 2001, which will be read later in this House amending also accordingly the Employment Ordinance and transferring the statutory powers of the Minister for Employment, in matters of training, to the Minister for Education and Training and I quote "to regulate and finance the training of persons employed or desirous of being employed". I commend the Bill to the House.

Discussion invited on the general principles and merits of the Bill.

HON S E LINARES:

Mr Speaker, I welcome this Bill. It is a Bill obviously of housekeeping and to put the record straight and to change names and stuff like that. The second part I also understand that it gives the Minister power to regulate all the training, the finance and all the aspects of training. So we will be voting in favour of this Bill.

Question put. Agreed to.

The Bill was read a second time.

HON DR B A LINARES:

I beg to move that the Committee Stage and Third Reading of the Bill be taken later today.

Question put. Agreed to.

## THE PUBLIC HEALTH ORDINANCE (AMENDMENT) ORDINANCE 2001

HON LT COL E M BRITTO:

I have the honour to move that a Bill for an Ordinance to amend the Public Health Ordinance in order to provide for the transposition into the law of Gibraltar Council Directive 98/83/EC of 3 November 1998 on the quality of water intended for human consumption, be read a first time.

Question put. Agreed to.

## SECOND READING

HON LT COL E M BRITTO:

I have the honour to move that the Bill be now read a second time. Mr Speaker, the Public Health Ordinance (Amendment) Ordinance 2001, amends part 3 of the Public Health Ordinance Water Supply to enable secondary legislation to be made implementing the provisions of Council Directive 98/83/EC on the quality of water intended for human consumption. Essentially the existing EC directive on this subject, that is Council Directive 80/77/EEC of 15<sup>th</sup> July 1980, has now been revised to take account of scientific and technological progress since that date. The revised directive also takes account of the scientific knowledge learnt from the implementation of the 1980 directive, as well as the variable adoption of that directive by different Member States. Both directives lay down standards for the quality of water intended for drinking or for use in food or drink manufacture in order to protect human health.

The new directive further establishes the general objective that drinking water should be free from micro organisms, parasites and substances, which constitute a danger to health and sets out 53 water quality standards divided between microbiological,

chemical and indicator parameters. The new directive will eventually replace directive 80/77/EEC. What is now presented in the revised directive is a more succinct list of determinants but a more prescriptive attitude towards the sampling frequency, determinants analysed for and methods of analysis to be deployed. I can confirm that all the methods of analysis used by Lyonnaise Des Eaux in Gibraltar fully comply with the analytical requirements of the directive in terms of performance, characteristics and limits of detection. The drinking water in Gibraltar already complies with the requirements of the new directives, so there will be no problem with the transposition of this directive into Gibraltar law. The power to make rules to secure compliance with the provisions of directive 98/83/EC is contained in clause 3(2) of the Bill. The remainder of the Bill makes consequential amendments to allow compliance with this latest directive. I commend the Bill to the House.

Discussion invited on the general principles and merits of the bill

HON DR R G VALARINO:

Mr Speaker, the Minister has mentioned Lyonnaise Des Eaux, but there is also Glen Rocky distillery which supplies water to the MOD. As the Minister knows there is a water section within the MOD section. I note in clause 2(2) following the definition for 'directive', 'domestic distribution system, means the pipes, fittings, et cetera', and I wonder whether this also covers the MOD distribution system and the water which the MOD supplies to their own people.

HON LT COL E M BRITTO:

I am aware that Lyonnaise has responsibility for analysing and the supply of all water that it itself supplies. That includes water that comes from MOD sources. In that sense I can answer the hon Member that yes Lyonnaise analyses and is aware of the quality of water supplied by the MOD.

HON J C PEREZ:

Will the Minister give way? My hon Colleague was not talking about the water that Lyonnaise supplies. He is talking about people who are still in military establishments, but some are already civilians, retired from the military and are supplied directly by the MOD. What we are asking is, is this directive applicable also to the MOD distribution system and is the Minister aware whether the MOD is already at the standards of the directive or would they have to do something in order to comply with that directive?

HON LT COL E M BRITTO:

Mr Speaker, I cannot answer for the MOD and I am not aware whether the MOD do comply or not comply. I might not have been clear in my previous answer. What I meant was water that is supplied from MOD sources to clients of Lyonnaise Des Eaux, that water is analysed and kept control of by Lyonnaise. Therefore, by implication, the rest of the MOD water supply is analysed, but I said, by implication. As I have already said, I am not answerable for MOD so I do not know what standard the water is.

HON J J BOSSANO:

Can I seek some clarification? The Minister may not know but presumably the law does apply to them? Is that confirmed or not? The directive does apply to all potable water, that includes MOD water.

HON LT COL E M BRITTO:

The directive applies to all water supplied in Gibraltar.

Question put. Agreed to.

The Bill was read a second time.

HON LT COL E M BRITTO:

I beg to give notice that the Committee Stage and Third Reading of the Bill be taken later today.

Question put. Agreed to.

## THE EMPLOYMENT ORDINANCE (AMENDMENT) ORDINANCE 2001

HON H A CORBY:

I have the honour to move that a Bill for an Ordinance to amend the Employment Ordinance so as to transpose into the law of Gibraltar Council Directive 98/49/EC on safeguarding the supplementary pension rights of employed and self-employed persons moving within the Community, be read a first time.

Question put. Agreed to.

HON H A CORBY:

I have the honour to move that the Bill be now read a second time. Mr Speaker, the Bill transposes into the law of Gibraltar Council Directive 98/49/EC on safeguarding the supplementary pension rights of employed and self-employed persons moving within the Community. The Bill closely follows the UK transposition of the directive contained in section 55 of the Child Support (Pensions and Social Security) Act 2000. Clause 2(2) of the Bill amends Part 5B of the Employment Ordinance to take into account that from now on that Part will be concerned as much with non-discrimination as with equal treatment. For the benefit of those Members who might wonder what the difference is, equal treatment for the purpose of Part 5B is a reference to equal treatment between men and women. Non-discrimination on the other hand is a reference to discrimination against Community nationals on the grounds of nationality. Clause 2(3) insert new sections 52Q and 52R into Part 5B. New section 52R is a standard regulation making section. The main body of the

transposition is contained in section 52Q. Section 52Q is inspired by the view that legislative action is needed at Community level to safeguard the supplementary pension rights of employees whose job takes them to more than one Member State. In particular section 52Q proposes that a worker who leaves a supplementary pension scheme in Gibraltar in order to work for another employer in another Member State does not lose the right already applied in the Gibraltar scheme, at least to the same extent as for members ceasing membership of the scheme but remaining within Gibraltar. The proposed new section further concerns the guarantee of cross border payments of supplementary pension schemes. The new section also proposes measures allowing workers temporary posted by their employer to another Member State to remain affiliated to the supplementary pension scheme in Gibraltar. The idea is to allow workers in multi national companies to maintain full occupational pension rights records.

In summary, new section 52Q covers four key points. The preservation of acquired pension rights for members of pension schemes, ensuring cross border payments of pensions. The preservation of rights of information and the possibility of continuing contributions to a supplementary pension scheme in the Member State of origin during the short term employment in another Member State. I commend the Bill to the House.

Discussion invited on the general principles and merits of the Bill.

HON J L BALDACHINO:

Mr Speaker, what we are actually doing is transposing into our laws what we are required to do by Council Directive 98/49/EC. That is what the Minister has explained in his contribution. We agree, because apart that it is a directive that we have to transpose into our laws, I think it is only good that the supplementary pension should be safeguarded in material whether the person is working in Gibraltar or in any other part of the Community. Therefore, in that sense, we not only welcome but we also agree and we accept and support the Bill as it stands.



Question put. Agreed to.

The Bill was read a second time.

HON H A CORBY:

I beg to give notice that the Committee Stage and Third Reading of the Bill be taken today.

Question put. Agreed to.

### **THE EMPLOYMENT ORDINANCE (AMENDMENT) ORDINANCE 2001**

HON H A CORBY:

I have the honour to move that a Bill for an Ordinance to amend the Employment Ordinance and the Employment (Amendment) Ordinance 1992, be read a first time.

Question put. Agreed to.

HON H A CORBY:

I have the honour to move that the Bill be now read a second time. Mr Speaker, this is a housekeeping measure consequent to the Government's decision to bring together Education and Training within the same department, namely the Ministry for Education. First of all, I would like to give notice that at Committee Stage I intend tabling an amendment to clause 1 to insert after the word "(Amendment)" the reference "(No.2)". I also intend proposing the deletion of clause 2(6) as this serves the same purpose as clause 2(5). Clause 2(2)(11) and (12) and clause 3 of this Bill amend the Employment Ordinance to take into account that this is no longer a statutory basis for the provision of training. Clause 2(3) defines Minister for the purpose of the Employment Ordinance. Clause 2(4) is intended to make the provision for the implementation of the Government's decision to make redundancy compensation available to all trades and not

just the selected few as has been the case up to now. Clause 2(5) and (13) updates the definition of Director and removes reference to DLSS. Clause 2(7) repeals section 3 to 5 of the Employment Ordinance. This section established the Manpower Planning Committee and the Employment Appeals Tribunal. Both these bodies have fallen into disuse and these provisions no longer serve a useful purpose. Clause 2(8) has the effect of endowing the Minister for Employment, with powers relating to the implementation of the Employment Ordinance. Clause 2(9) is intended to give powers to the Minister to make conditions of employment orders without the recommendation of the condition of Employment Board when that is necessary to implement Government policy. Conditions of Employment orders, as a matter of practice, do not appear in Spanish. Clause 2(10) carries out the necessary amendment to section 38(1). Clause 2(6) and (9) effect minor amendments to the Employment Ordinance consequential to the split of the Department of Labour and Social Security into two distinct Government departments. I commend the Bill to the House.

Discussion invited on the general principles and merits of the Bill.

HON J L BALDACHINO:

Mr Speaker, as the Minister has just said and previously by the Minister for Education and Training, it is logical that if the Government decided that it is time to pass over the training to the Education Department, then obviously the levy should pass on to that Department. I agree entirely that section 38(1) should be amended by deleting the words "and Spanish". The question I would like to ask the Minister, even though it is explained in the Explanatory Memorandum, that the Bill repeals section 3 to 5 and says that the sections have fallen into disuse, the question is, if the Minister can answer when he replies, even though it is now not in use and it is not serving any useful purpose, if we remove it, could it be that in a future date by not having that section it could actually not meet the requirement of people's aspirations on that one. The other thing is, not so much on the Manpower Planning Committee, the control of the Employment Appeals Tribunal, is it

that the Tribunal that is now set up covers part of that? Will it not be useful to have it there even though it is not used at the moment, rather than repealing it.

HON H A CORBY:

The Manpower Planning Committee was enforced because at that time there was a quota of foreign labour which one could employ in Gibraltar. That is no longer the case because of EEC legislation. The Employment Appeals Tribunal acted for appeals when a work permit was not given. It is now the Director who is responsible to giving the work permit and the only cause of a person to appeal against the work permit is on judicial review, which is the court.

Question put. Agreed to.

The Bill was read a second time.

HON H A CORBY:

I beg to give notice that the Committee Stage and Third Reading of the Bill be taken today.

Question put. Agreed to.

The House recessed at 12.10 pm.

The House resumed at 12.20 pm.

#### COMMITTEE STAGE

HON ATTORNEY GENERAL:

I have the honour to move that the House should resolve itself into Committee to consider the following Bills clause by clause:

(1) The Criminal Procedure (Amendment) Bill 2001.

- (2) The Immigration Control Ordinance (Amendment) Bill 2001.
- (3) The Imports and Exports Ordinance 1986 (Amendment) Bill 2001.
- (4) The Tobacco Ordinance 1997 (Amendment) Bill 2001.
- (5) The Gibraltar Heritage Trust Ordinance 1989 (Amendment) Bill 2001.
- (6) The Education Ordinance (Amendment) Bill 2001.
- (7) The Public Health Ordinance (Amendment) Bill 2001.
- (8) The Employment Ordinance (Amendment) Bill 2001.
- (9) The Employment Ordinance (Amendment) Bill 2001.

#### **THE CRIMINAL PROCEDURE (AMENDMENT) BILL 2001**

Clause 1 was agreed to and stood part of the Bill.

#### Clause 2

HON CHIEF MINISTER:

Mr Chairman, I have amendments to propose to clause 2. In proposed section 94(4) I would like to add new subsections (5) and (6), which would read as follows:

- “(5) the requirements of subsection (2) (b) (ii) or 3(b) of this section shall be deemed not to have been satisfied if the failure to secure the attendance of the person who made the statement or the failure of that person to give oral evidence as the case may be is principally due to the fact that the person making the statement is directly or indirectly subject to superior instructions to the effect that he should not attend before the Court in Gibraltar or give

oral evidence before it by virtue of that superior authority's non recognition of Her Majesty's sovereignty in Gibraltar or of Her Majesty's courts in Gibraltar or any other political reason.

- (6) a certificate in writing signed by the Chief Secretary as to any fact referred to in (5) above shall be conclusive as to the facts therein certified."

Mr Chairman, I think Members can get just from the reading of that the political sense and the objective. I do not know if they are interested in having explained to them how it fits in in the context of the reference of sub-section 2(b) (ii) and 3(b). Those are the two relevant sections that would otherwise let it in for that purpose. The other amendment to clause 2 is the deletion of 94(l), that will come back to the House in another Bill. Mr Chairman, I commend those amendments to the House.

Clause 2, as amended, was agreed to and stood part of the Bill.

Clauses 3 and 4 and Schedules 3A and 3B were agreed to and stood part of the Bill.

The Long Title

HON CHIEF MINISTER:

It should be an "Ordinance to amend the Criminal Procedure Ordinance".

The Long Title, as amended, was agreed to and stood part of the Bill.

**THE IMMIGRATION CONTROL ORDINANCE (AMENDMENT)  
BILL 2001**

Clause 1 was agreed to and stood part of the Bill.

Clause 2

HON CHIEF MINISTER:

In section 11(b) after the words ".....commercial traffic," add the words "under the supervision and control of an immigration officer."

Clause 2, as amended, was agreed to and stood part of the Bill.

The Long Title was agreed to and stood part of the Bill.

**THE IMPORTS AND EXPORTS ORDINANCE 1986  
(AMENDMENT) BILL 2001**

Clause 1 was agreed to and stood part of the Bill.

Clause 2

HON CHIEF MINISTER:

Mr Chairman, I would like to propose an amendment to which I have not given written notice, but it is a simple one. Although the headings do not form part of the law, given that section 91 only relates to sea or air, I think it would be helpful if the title were "Export of tobacco by sea or air". Otherwise it gives the impression that it is comprehensive as to tobacco exports including land, whereas exports by land is separately dealt with. I would propose that the heading read "Export of tobacco by sea or air", by adding the words "by sea or air" to the existing words.

I would also wish to propose an amendment to clause 2, by adding a new subsection (4) to section 92 to read:

"(4) No prosecution for an offence under this section shall be brought without the prior consent in writing of the Attorney General".

Clause 2, as amended, was agreed to and stood part of the Bill.

The Long Title was agreed to and stood part of the Bill.

#### **THE TOBACCO ORDINANCE 1997 (AMENDMENT) BILL 2001**

Clauses 1 and 2 and the Long Title

Question put. The House voted.

For the Ayes: The Hon K Azopardi  
The Hon Lt Col E M Britto  
The Hon P R Caruana  
The Hon H Corby  
The Hon Mrs Y Del Agua  
The Hon J J Holliday  
The Hon Dr B A Linares  
The Hon J J Netto  
The Hon R R Rhoda  
The Hon T J Bristow

For the Noes: The Hon J L Baldachino  
The Hon J J Bossano  
The Hon Dr J J Garcia  
The Hon S E Linares  
The Hon Miss M I Montegriffo  
The Hon J C Perez  
The Hon Dr R G Valarino

Clauses 1 and 2 and the Long Title stood part of the Bill.

#### **THE GIBRALTAR HERITAGE TRUST ORDINANCE 1989 (AMENDMENT) BILL 2001**

Clause 1 was agreed to and stood part of the Bill.

#### Clause 2

HON K AZOPARDI:

Mr Chairman, just a very brief amendment in section 33(2), after the word "Minister" it should say "with responsibility for Heritage."

Clause 2, as amended, was agreed to and stood part of the Bill.

The Long Title was agreed to and stood part of the Bill.

#### **THE EDUCATION ORDINANCE (AMENDMENT) BILL 2001**

Clauses 1 and 2 and the Long Title were agreed to and stood part of the Bill.

#### **THE PUBLIC HEALTH ORDINANCE (AMENDMENT) BILL 2001**

Clauses 1 to 4 and the Long Title were agreed to and stood part of the Bill.

#### **THE EMPLOYMENT ORDINANCE (AMENDMENT) BILL 2001**

Clause 1 was agreed to and stood part of the Bill.

HON J J BOSSANO:

Mr Chairman, in clause 2, in the Explanatory Memorandum it says that the Bill deals with safeguarding occupational pensions from persons moving within the Community, but, if we look at the provisions contained in clause 2(3).

HON CHIEF MINISTER:

What sub-section?

HON J J BOSSANO:

It is 52Q(3). It says “which would be different according to whether the person works wholly in Gibraltar or wholly or partly outside Gibraltar”. Outside Gibraltar means presumably anywhere in the world. It does not do what the directive says and it does not do what the Explanatory Memorandum says it does because it has nothing to do with moving within the Community. I do not know whether that is deliberate and that the Government have decided that that is what they are going to do, but it is certainly not what the Explanatory Memorandum claims is being done and it is not what we are required to do to give effect to the directive.

The other point is that I am surprised at the way that this particular directive has been given effect by doing this Bill, which is different from any other one that I remember coming across, in that it seems to say that occupational schemes will be in conflict – as I read it – in conflict with the directive if they do not have certain requirements, which the directive says they have to have unless regulations provide otherwise. What we appear to be doing is legislating not to say “occupational schemes must comply with the directive”, but to say “occupational schemes must comply with the directive unless regulations are made which let them get out of it”. It is a very odd mechanism which I do not recall ever having seen in any other form of transposition of Community law. I wonder if that could be explained.

HON CHIEF MINISTER:

Mr Chairman, I cannot. I am not personally familiar with the directive in question. Presumably regulation means regulation consistent with the directive. I agree that it would be odd that one could legislate out of compliance with the directive. It also appears to be odd that by the use of the phrase “outside Gibraltar”, we are giving the benefit to somebody who works in Zimbabwe. The Government can only assume that the Bill has been properly drafted. I have to say that at first sight the two

points that the hon Member makes sound logical and it is not the only reference to ‘outside Gibraltar’. There are other references to ‘outside Gibraltar’, unless it is all saved by some definition in the directive of the phrase “occupational pension scheme”.

HON J J BOSSANO:

Mr Chairman, if I can read what the directive says, it defines supplementary pension scheme as “any occupational pension scheme established in conformity with national legislation”. That is the only reference that there is to what this is supposed to do. Article 1 says, “The aim of the directive is to protect the rights of members of supplementary pension schemes, which is defined as an occupational one, who move from one Member State to another”. That is what the Explanatory Memorandum says this does, which is what the directive says it ought to do. Article 1 says it is to protect people moving from one Member State to another, so that they are not hindered in their free movement in respect of deficiencies in occupational schemes, anymore than they would be if those deficiencies existed in Social Security schemes. For example, in our Social Insurance legislation, I do not think we go beyond what the Commission requires us to do.

HON CHIEF MINISTER:

And there is no intention to do that. The fundamental point that the hon Member is making, as I understand it, and I think it must be good, is that this is a measure to create freedom of movement within the Community, not freedom of movement on a global basis, and that therefore one is only protecting people who work both in Gibraltar and in some other part of the Community, and not both in Gibraltar and in some other part of the world at large. Mr Chairman, I think both these points are sufficiently worthy of enquiry to prompt the Government to stand down the remainder of the Committee Stage until the next sitting, so we can leave this one on the agenda as well. I am grateful to the hon Member for pointing out this.

## THE EMPLOYMENT ORDINANCE AND THE EMPLOYMENT (AMENDMENT) ORDINANCE 1992

### Clause 1

HON H A CORBY:

Mr Chairman, insert after the word "(Amendment)" the reference "(2)".

Clause 1, as amended, was agreed to and stood part of the Bill.

### Clause 2

HON H A CORBY:

Mr Chairman, delete subsection 2(6) and renumber subsequent subsections.

Clause 2, as amended, was agreed to and stood part of the Bill.

### Clause 3

HON J J BOSSANO:

The Bill repeals sections 3 to 5 of the Employment Ordinance. It says here "which are the sections that establish the Manpower Planning Committee and the Employment Appeals Tribunal". I can understand that the Manpower Planning Committee is now effectively without a role because it is the one that used to have quotas. What exactly are the appeals in the Employment Appeals Tribunal?

HON H A CORBY:

The Employment Appeals Tribunal was for when there was a work permit applied for and it was not given. They could then go to this Appeals Board. At the moment it is given by the Director

and the only way that they can appeal against the non issue of the work permit is by Judicial review through the courts.

Clause 3 and the Long Title were agreed to and stood part of the Bill.

THIRD READING

HON ATTORNEY GENERAL:

I have the honour to report that the Criminal Procedure (Amendment) Bill 2001; the Immigration Control Ordinance (Amendment) Bill 2001; the Imports and Exports Ordinance 1986 (Amendment) Bill 2001; the Tobacco Ordinance 1997 (Amendment) Bill 2001; the Gibraltar Heritage Trust Ordinance 1989 (Amendment) Bill 2001; the Education Ordinance (Amendment) Bill 2001; the Public Health Ordinance (Amendment) Bill 2001; and the Employment Ordinance (Amendment) (No.2) Bill 2001, have been considered in Committee and agreed to, with amendments, and I now move that they be read a third time and passed.

Question put.

The Criminal Procedure (Amendment) Bill 2001; the Immigration Control Ordinance (Amendment) Bill 2001; the Imports and Exports Ordinance 1986 (Amendment) Bill 2001; the Tobacco Ordinance 1997 (Amendment) Bill 2001; the Gibraltar Heritage Trust Ordinance 1989 (Amendment) Bill 2001; the Education Ordinance (Amendment) Bill 2001; the Public Health Ordinance (Amendment) Bill 2001; and the Employment Ordinance (Amendment) (No.2) Bill 2001, were agreed to and read a third time and passed.

The Tobacco Ordinance 1997 (Amendment) Bill 2001.

The House voted.

For the Ayes: The Hon K Azopardi  
The Hon Lt Col E M Britto  
The Hon P R Caruana  
The Hon H Corby  
The Hon Mrs Y Del Agua  
The Hon J J Holliday  
The Hon Dr B A Linares  
The Hon J J Netto  
The Hon R R Rhoda  
The Hon T J Bristow

For the Noes: The Hon J L Baldachino  
The Hon J J Bossano  
The Hon Dr J J Garcia  
The Hon S E Linares  
The Hon Miss M I Montegriffo  
The Hon J C Perez  
The Hon Dr R G Valarino

The Bill was read a third time and passed.

#### ADJOURNMENT

The Hon the Chief Minister moved the adjournment of the House to Wednesday 13<sup>th</sup> June 2001, at 10.00 am.

Question put. Agreed to.

The adjournment of the House was taken at 1.00 pm on Friday 1<sup>st</sup> June 2001.

#### WEDNESDAY 13<sup>TH</sup> JUNE 2001

The House resumed at 10.00 am.

#### PRESENT:

Mr Speaker ..... (In the Chair)  
(The Hon Judge J E Alcantara CBE)

#### GOVERNMENT:

The Hon P R Caruana QC - Chief Minister  
The Hon K Azopardi - Minister for Trade, Industry and Telecommunications  
The Hon Dr B A Linares – Minister for Education, Training, Culture and Health  
The Hon Lt-Col E M Britto OBE, ED – Minister for Public Services, the Environment, Sport and Youth  
The Hon H A Corby – Minister for Employment and Consumer Affairs  
The Hon J J Netto - Minister for Housing  
The Hon Mrs Y Del Agua - Minister for Social Affairs  
The Hon T J Bristow - Financial and Development Secretary

#### OPPOSITION:

The Hon J J Bossano – Leader of the Opposition  
The Hon Dr J J Garcia  
The Hon J L Baldachino  
The Hon Miss M I Montegriffo  
The Hon Dr R G Valarino  
The Hon J C Perez  
The Hon S E Linares

#### ABSENT:

The Hon J J Holliday – Minister for Tourism and Transport  
The Hon R Rhoda QC – Attorney General

#### IN ATTENDANCE:

D J Reyes Esq, ED – Clerk of the House of Assembly

## DOCUMENTS LAID

The Hon the Financial and Development Secretary moved under Standing Order 7(3) to suspend Standing Order 7(1) in order to proceed with the laying of a document on the Table.

Question put. Agreed to.

The Hon the Financial and Development Secretary laid on the Table the following document:

Statement of Consolidated Fund Reallocations approved by the Financial and Development Secretary (Nos.9, 10 and 11 of 2000/2001).

Ordered to lie

## BILLS

### FIRST AND SECOND READINGS

The Hon the Financial and Development Secretary moved under Standing Order 7(3) to suspend Standing Order 7(1) in order to proceed to the First and Second Readings of a Bill.

Question put. Agreed to.

### **THE APPROPRIATION (2001-2002) ORDINANCE 2001**

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I have the honour to move that a Bill for an Ordinance to appropriate sums of money to the service of the year ending with the 31<sup>st</sup> day of March 2002, be read a first time.

Question put. Agreed to.

## SECOND READING

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I have the honour to move that the Bill be now read a second time. I will, Mr Speaker, as is customary confine my contribution at this stage of the proceedings to an outline of the content of the Bill. The Chief Minister will present the Government's budget. The Appropriation Bill is in three parts. First, the House is being asked to appropriate an amount up to £118,900,000 for Departmental expenditure as set out in Part one of the Schedule to the Bill. A further £22,900,000 of Consolidated Fund Charges, not requiring a vote of the House, brings the total estimated expenditure from the Consolidated Fund to £141,800,000.

Hon Members will see from the Government's detailed Estimates, laid in the House previously, that the recurrent revenue for the year is projected at £150,300,000 producing a surplus of £8.5 million. This surplus, together with the £1.5 million from Reserves, makes up the £10 million contribution from the Consolidated Fund Reserve to be appropriated to the Improvement and Development Fund. The other leg to the second part of the Bill is a small provision of £50,000 for any residual spending on the Moroccan Resettlement Scheme. The third section of the Bill seeks the appropriation of up to £25,100,000 from the Improvement and Development Fund for capital and economic projects, as set out in Part Three of the Schedule. The main sources of finance are the £10 million that I referred to earlier, £10 million of bank borrowing. European Union grants, the sale of lands and buildings, miscellaneous receipts and utilising some of the positive balance held on the Fund make up the remainder.

Mr Speaker, I have previously circulated that there is a small amendment to the supplementary information provided in the Government's Estimates concerning the number of Gibraltar Development Corporation employees. There are other adjustments, very minor adjustments, to the appendices, which will be dealt with later in the Second Reading and at the



Committee Stage. None of these adjustments impact on the appropriation being sought by the Government from this House. I give way, Mr Speaker, to the Chief Minister and in so doing commend the Appropriation Bill 2001 to the House.

MR SPEAKER:

I now call on the Chief Minister to proceed with his speech.

HON CHIEF MINISTER:

Mr Speaker, in the past I have explained in this House that there are four objectives that underlie the economic policy of this Government. They are firstly, to create a climate for prosperous Private Sector activity which creates wealth and generates jobs for our people and revenue for our Government.

Secondly, to invest in modernising our public services. Health: in the form for example of the new hospital, Social Services: in the form for example of the Elderly Care Agency, the upgrading of the provision of care for the elderly, the modernisation of the Social Services Agency, the extension of Social Services. Training and Technology, Education all those form part of the second strand of investment in modernising our public services.

Thirdly, investment in the physical infrastructure and facilities of Gibraltar, refurbishment of our streets and squares, refurbishment of our public housing, refurbishment and replacement of our economic assets, investment in our sports and leisure facilities, investment in our environment. The fourth strand of Government's economic policy, in addition to the first three, is our enduring commitment to lowering the burden of personal taxation in Gibraltar and the Government are convinced that only in an economic policy that balances these four objectives can we be sure that all sectors of our community currently and that of our future generations will benefit in an enduring way from our current economic prosperity. The Government do not intend to change the economic course upon which they are embarked believing

firstly that it is correct and secondly that it is paying dividends for Gibraltar.

It is a broad and balanced economic, social and physical development of Gibraltar in an economically sustainable way, in a prudent fashion that does not burden future generations with significant debt. And thus capital is invested in all the many projects that the Government have embarked upon under those limbs of our economic policy that I have just described, capital is invested whilst maintaining reserves at a prudent level, whilst maintaining public debt at a prudent level and using mainly budgetary surpluses to finance capital investments and thus ensuring that we do not raise public debt significantly or substantially and thus avoid mortgaging future generations with things that we do today.

The last 12 months Mr Speaker, has seen substantial progress made in many aspects of Gibraltar's economic and social affairs. Not least important amongst them was the Government's successful resolution of the Harbour Views litigation through a settlement in October of last year which secured a payment from the construction company in question, a settlement payment of £24,360,703 which included £1.5 million for the damage and inconvenience that tenants have suffered within the contexts of their own homes. The level of legal and consultancy fees alone are estimated to reach £6,000,000 in addition to the massive cost of works estimated to emerge now as we approach completion of a most successful and indeed beautifying remedial works project of about £17,000,000 or £17,500,000.

Government had been funding this and therefore the settlement of this action on such successful terms lifts a big cloud over public finances. The second significant achievement was the confirmation, in March of this year, of the allocation to Gibraltar of a further programme of EU Structural Funds, 8.38 million euros will be destined on a matching fund basis to a Gibraltar plan, the global objective of which is to maximise the potential for generating wealth and employment to sustainable economic activity especially in tourism, financial services,

telecommunications and the port. Light manufacturing activities and public and private sector projects are both available to qualify for access to those funds.

The last 12 months have also seen a significant start to many projects that fall into that category of our economic policy which I described as modernising our Social Services, modernising our infrastructure and modernising our leisure and cultural and recreational activities in Gibraltar. And so, significant advances have been made towards the implementation of the new hospital project which is on stream for its scheduled completion date during this term.

Work is at an advanced stage indeed, the first game was played on the first of the facilities only yesterday or the day before on a new sports centre by way of extension to the existing Victoria Stadium facilities.

Work continues at pace on the project to restore and reopen the Theatre Royal similarly the Retreat and Seminar Centre to be built at Lathbury Barracks. Work continues on the development and expansion of Mount Alvernia and the Elderly Care Services generally, public housing refurbishment, beautification and lift installation projects, all of these are things that have been advanced during the course of those 12 months so that all of those projects are now at a phase where building works will start soon, in the case of the sports centre works are already underway, well underway as they are in relation to housing refurbishment.

In respect of achievements for the elderly of our community the last 12 months has seen the implementation of complete exemption from income tax for elderly people with an assessable income of less than £7,600 and a tapering off relief for those between £7,600 and £9,000.

The elderly persons minimum income guarantee has been implemented, so not only have thousands of Gibraltarian elderly people been exempted from tax or had their tax liability very

substantially reduced through the tapering off procedure for those with more than £7,600 but a meaningful safety-net has been created in terms of income underneath our elderly population. There are 407 elderly persons who are living on incomes of less than £85.00 a week for single people and £110.00 a week for a married couple who are now having their income topped-up by the Government to ensure that they have at least £85.00 a week to live on or £110.00 a week. The elderly person's income tax exemption coupled with the introduction of the elderly person's minimum income guarantee are the most radical package of measures ever introduced in Gibraltar for the benefit of our elderly people.

Still in the realms of the social field and what has been achieved in the last 12 months I can report to the House that maternity grants and death grants have both been raised to £350 as announced last year. Education and Maintenance grants have been increased by 10 per cent. Parental contributions have been decreased both as promised in our manifesto.

Significant infrastructural works have been done to our educational infrastructure, school halls at St Anne's, Westside School and now one just starting at St Joseph's School. Significant investment in the infrastructure of our schools and about which the Government are particularly proud and satisfied. An unprecedented quantity and quality of investment and effort in training and retraining of youths and the not so young in our community.

For the business community the last 12 months has seen the introduction, of a one stop-shop that enables employers to cut red-tape by registering their labour at one as opposed to three or four places. We have introduced the unification of the payments of PAYE and Social Insurance contribution to avoid the administrative palaver of having to buy and store Social Insurance stamps.

Two new Industrial Parks are being built; links with Heathrow Airport have been restored and a third airline on stream we

believe is imminent. Commercial vehicle import duties have been made the subject of a holiday, so that therefore, it has given the business community an opportunity to make investments.

The completion of Casemates Square has provided a big boost to the business, the moral atmosphere and the opportunities in Gibraltar. At this point, I would like to mention, not only is it of political and projection relevance to Gibraltar but because it is available for Gibraltar businesses, businessmen and professionals to use as a base for their meetings in London, the last 12 months has seen the re-opening of an extended and extensively refurbished Gibraltar Office in London which now provides excellent ambience and facilities for businesses in Gibraltar to use as a base as they are free to do for their meetings. It has splendid and well appointed large meeting rooms and those facilities are available to local businessmen for use.

Mr Speaker, I think the achievements of the last 12 months have not been limited to the things that I have said in terms of our infrastructure, our businesses and our social progress. I think there has been unprecedented progress. By unprecedented I mean, in all the years that Gibraltarians have been conducting their own affairs, there has been unprecedented progress in the infrastructural improvement of the working conditions of thousands and thousands of ordinary working people in Gibraltar. The minimum wage has been raised from £3.26 to £3.75 and it now applies to all workers whether they are paid weekly or monthly subject only to a few logical exceptions.

The pensions and gratuity payment terms of public sector industrial and non-industrial workers have been harmonised. This satisfies I believe a just ambition of the Trade Union movement in Gibraltar going back for 20 years and I am very proud that it is this Government that have introduced measures that have delivered that historic break-through as part of this Government's balanced package of policies carefully structured, as I said before, to ensure that every sector of our community benefits from the

economic prosperity that the Government's economic policies are delivering.

All workers are now, as a result of action taken in the last 12 months, covered by Statutory Redundancy Payments. For years and years and years there was only Statutory Redundancy Payment Cover for workers in certain sectors who were covered by a Joint Industrial Council Agreement. All workers in Gibraltar are now covered by Statutory Redundancy and also for the first time by coverage from the Government's Gibraltar Development Corporation Insolvency Fund Cover.

The Government have initiated their work through joint working Committees between the Government, the Trade Union movement and the employers Representatives, Government have initiated work on that commitment in our manifesto to make progress towards ensuring the greater incidence of occupational pension schemes in the private sector. There has been structural changes, not forgetting the significant reduction in income tax, which ordinary workers have enjoyed since 16<sup>th</sup> May 1996, following the Government's annual effective reduction in taxation and the fact that in five years we have had one increase in Social Insurance Contributions a regressive tax on the lowest paid whereas, when we arrived in office, the established practice was for annual increases in Social Insurance Contributions and of 10 per cent as well, much higher than the rate of inflation. Not to be forgotten when it comes to assessing the Government's performance in favour of ordinary working people.

Therefore, Mr Speaker, I judge, and I hope that others will similarly judge that there has been good progress on the very broad front of action that the Government have established in order to ensure that Gibraltar develops economically and socially on the broadest possible upfront.

Last year I said that the private sector, the engine of our economy was in very good shape, and it certainly, in the Government's judgement, remains in very good and robust conditions. The pound has remained stubbornly high against the euro. There are now early signs of its weakening as the possibility of the UK's own

entry into this European Single Currency seems to be growing nearer and nearer following the UK elections. Certainly, any weakening of the pound against the euro would benefit large areas of our trade in Gibraltar in the private sector.

The President of the Chamber of Commerce, Mr Speaker, I believe was fully entitled to describe the state of the private sector last year as buoyant and vibrant. Even though, everybody understands that within that overall buoyancy and vibrancy of course there are some sectors that are doing better than others. All the economic indicators available to the Government support the view that the economy remains, thank goodness and touch wood, in a buoyant and robust condition. I was interested to read the survey of trading conditions and the survey of perceptions amongst Chamber members published in the recent annual report of the Chamber of Commerce. Admittedly, it is a smallish return. It is a report based on a smallish number of returns, it cannot therefore be regarded as scientific in its accuracy, but it does provide, I believe, at the very least, useful indicators of what is going on out there.

The year ended November 1999, had itself been a good year to the economy of Gibraltar. In November 2000 in comparing the state of their businesses with the previous already good year, 80 per cent of businesses felt that their business was better or the same, with 33 per cent believing it to be better, 47 per cent believing it to be the same and only 20 per cent believing it to be worse. In the Finance Centre 95 per cent of businesses considered that the year 2000 had been better or the same as the year 1999 which had been described as a record year.

In the maritime and yacht activities, 100 per cent of businesses thought that 2000 had been better than 1999. And in all other sectors other than those three, 72 per cent thought that it was better or the same. I suppose there is limitation to apply here Mr Speaker, the business about whether the glass is half full or half empty, but the fact is, that when one starts from a high base rate of economic activity, when one has a year that is thought to be a good year and the next year 80 per cent of people think that they

are better off or the same, that is, I believe a very robust performance.

And certainly as far as the Government are concerned, without deploying the least degree of complacency, goodness alone knows that there are enough potential and actual threats and challenges on the horizon to permit any degree of complacency, but the fact that one is not complacent about the future is not a good reason not to objectively assess the past and the present.

Therefore, overall, all sectors taken together, 83 per cent of the business community in Gibraltar believed that in the year to November 2000 their businesses were doing better or the same than in the previous year, and I suggest, that it suggests, that the overall state of the economy is still good. It suggests also, that different sectors perform slightly differently, and it suggests, and this is perhaps the key, that even within each sector, different businesses perform differently, depending on many factors that are outside the Government's control. The skill and competence of the management; the degree to which the owners of the businesses are able and willing to invest in the renovation and expansion of their businesses. Overall the private sector appears to remain in good shape; (2) different sectors perform differently; and (3) it is clear to the Government that within those sectors, different businesses, different companies perform differently as well. If one looks at that survey at the outlook for what was then the following year, now the current year, 85 per cent of businesses in Gibraltar felt that in the current year, that is to say, the year ending November 2001, their businesses would do the same or better. Only 15 per cent believed that their businesses would do worse than in the year 2000. Therefore, the business outlook, subject obviously to the many uncertainties that might always be lurking around the corner, subject to all of that, the business outlook is good.

I would like, Mr Speaker, from this opportunity that I have to make a speech on the economy to share one of the remarks made by the President of the Chamber of Commerce in his personal statement contained in that report to the effect that it is vital for

the private sector in Gibraltar to be agile to ensure its success regardless and in spite of changes in Spain. It is essential that the private sector is agile. It is essential that it delivers value for money. It is essential that it delivers service. It is essential that it delivers a unique product to the greatest possible extent. It is essential that it delivers a high and good quality experience. It is essential that it develops and delivers an attractive shopping environment, all of which requires investment and standards. And only if the private sector shows, by which I mean, I suppose in particular although it applies also to the Finance Centre, I believe they are rising to the challenge, but it applies particularly to our retail trading sector if they are to remain as competitive. Despite changes in this retail scene and economic scene in Spain it is essential that they show that degree of agility which Gibraltar traders have always shown in the past when changing market circumstances has required them to adjust their approach to business.

Mr Speaker, turning to employment statistics we started January 2000 with 305 registered unemployed Gibraltarian. We finished the year December 2000 with 287. In March 2001 for reasons that we have not been able to get to the bottom of the statistics show an increase to 349. The truth is that since March and up to May although the details of these figures are not yet published, it appears that up to the end of May the figure will show a reduction to about 330, so we are once again approaching the 300 mark that has been in a sense the floor on the unemployment statistics.

What the Government seek a statistical explanation for, or perhaps a substantive explanation for, is why there are such large fluctuations in between the quarter ends. I mean in a small place like Gibraltar when businesses shed labour in numbers sufficiently large to register on the unemployment figures we get to hear about it, but the suggestion that in December 2000 there were 287 unemployed registered Gibraltarians and that three months later in March the figure was 52 higher without there having been any notifiable redundancies and remember that any redundancies over five have got to be notified, it seems to suggest that there is

a level of fluctuation in the figures which does not reflect the fact that people are losing their jobs.

Mr Speaker, one possibility is the fact that our system for the delivery of Social Security Benefits is still tied in to registration for employment. And I think it is important that that should be so, because, of course, the tax payer provides the Social Security as a safety-net for people who genuinely cannot find employment or who for some reason of incapacity or infirmity are unable to obtain employment. The tax payers of Gibraltar do not provide the Social Security safety-net for people who simply cannot be bothered to work. I believe that in order to eliminate from the burden of the tax payer's shoulder, financial responsibility for those, not who cannot work or who cannot find work, I know of no-one in Gibraltar who would not happily pay taxation to provide income support for them, but for the people who have made a professional habit out of not working and collecting Social Insurance Contributions. I believe that the tax payer in Gibraltar does not want his tax money used to subsidise people that fall into the latter category, and so for that reason, the forthcoming year would see the introduction of the job seekers agreement which will make people's entitlement to collect Social Insurance Security payments conditional on them being genuinely available for employment, genuinely seeking employment and being genuinely in the labour market. Whether or not they then succeed for reasons that are not attributable to them would in no way prejudice them, but it is the only way of weeding out from what is a considerable burden on the tax payer, people who have been collectors of Social Insurance Contribution almost all of their lives despite that they appear to have no impediment to finding employment.

Mr Speaker, if I could just conduct a review of where the individual sectors of the Private Sector stand. The Government continue to be satisfied, well satisfied with the performance of our Tourism Sector. The sector has continued to grow despite instability injected by disruptive action and attitude within the Transport Sector. The Government will continue to show a

willingness to work with all interested parties in the Transport Sector to ensure firstly, and in this order, the best for Gibraltar plc, and secondly, but only secondly, the interest of the various players in the Transport Sector. Certainly the Government, as they have done from the very outset will continue to show a willingness to engage all the parts in dialogue and consultation and consensus seeking ways forward. What the Government will not do is compromise their rights in the final analysis and in the absence of consensus, to make final judgements in the final analysis as the Government consider the overall interests that Gibraltar requires.

Mr Speaker, statistics show that the Tourism Sector has grown. Visitors arriving through our land frontier have risen from 6.5 million in 1998 to 7 million in the year 2000 after having fallen to 5.9 million in the year in between because of the difficulties that we had at the border, in part of that year. It is still a 7.7 per cent increase in 2000 over the year 1998.

The number of coaches arriving in Gibraltar have increased from 12,957 in 1998 to 14,763 in the year 2000, again an increase of 14 per cent. Mr Speaker, the reason why I am using by way of a percentage comparison 2000 as compared to 1998 and not to the previous year 1999 is that for reasons of specific difficulties at the frontier, which we have debated in this House before, 1999 was a deep down year, fishing dispute and things of that sort. If I were to compare the year 2000 figures with the artificially and extraordinary low 1999 figures, the percentage growth figures would be even larger. So, for example, if I were to compare the coach growth 2000 against 1999 the percentage increase would be 23.2 per cent. I therefore choose to compare it with the previous year 1998 in order not to take the benefit in the presentation of these statistics of what was an unusually low year in 1999 for very specific reasons. Air passenger arrivals similarly have increased 1998: 92,000, 1999: 98,000, 2000: 104,000. Hotel guests nights sold 1998: 145,000, 1999 154,000, 2000 164,000, 6 per cent year on year increases. Visitors to the upper

rock nature reserve have increased from 709,000 in 1998 to 791,000 in the year 2000.

Cruise call passengers have similarly increased. Every indicator in the tourism sector shows a continually growing tourism sector. In 1998 we received 135 cruise ships and in 1999 and 2000 we have received 175 cruise ships. In terms of passenger numbers on those ships the numbers have risen from 93,000 in 1998 to 125,000 in 1999 and 133,000 in the year 2000. The fact that we get more passengers out of the same number of ships, as the hon Members know, reflects the fact that ships are becoming larger and larger. In terms of the comparison of cruise visits to Gibraltar in the first four months of the year 2001 compared with the first four months of the year 2000 there will be a reduction this year resulting exclusively from the fact that the R.2 was withdrawn by its owners Renaissance from the Mediterranean in the winter months and that was the ship that used to deliver the statistics, the figures of visits during the winter months February and March. But overall for the year 2001 we expect to see no decrease in the overall number of ships that will visit, even though they will be fewer in the winter months.

Yacht arrivals similarly show an increase from 4,200 in 1998 to 4,600 in 1999. Therefore, again, whilst the Government show no degree of complacency, as is evidenced by the fact that notwithstanding that one reaches record figures every year that passes, the Government continue to invest heavily in things which are designed to improve the tourism product in Gibraltar, not just in street refurbishment, but now also in product development witnessed by the forthcoming development, for example, the area nearest the lighthouse and also the World War II Tunnels Project.

Moving on to the Port, again another very good year. I have already given the hon Members the yacht and cruise calls figures which of course also contribute activity not just to our Tourism Sector but also to our Port and businesses.

I am particularly happy to report to the House the continuing progress, in the rebirth, if one could put it that way, of our Ship

Registry which had just 28 ships in 1998, 39 ships in 1999 and 68 flaggings in the year 2000. I can tell hon Members that the year 2001 also points to a further significant year on year increase and therefore I think it is now possible for us to say that the Ship Registry has been successfully re-launched. Other statistics in which hon Members may be interested in relation to the performance of the Port, is the simple measure of the number of ships visiting our Port which has risen from 5,574 in 1998 to 6,303 in the year 2000 and the increase from 1996 to the year 2000 is a spectacular 40 per cent.

In 1996, 4,500 ships called in at our Port. In the year 2000, 6,303 ships called in at our Port, a truly, I believe, spectacular increase of 40 per cent in just five years. And the increase has been no less spectacular in the volume of bunkers delivered ships which has risen from 1.7 million metric tonnes in 1996 to 2.7 million metric tonnes in the year 2000, an increase of 59 per cent. These statistics, I believe are a fair and reasonable measure of the extent to which the Port continues to improve and to provide an increasingly valuable part of our economy and certainly the Government will continue with their restructuring of the Port, with their commercial restructuring of the Port, with their marketing of the Port, and above all, with their infrastructure developments in the Port to ensure that this trend is continued.

Whilst on the subject of the Port, Mr Speaker, the Government have been greatly relieved and gratified by the fact that it was possible to retrieve a potentially very harmful situation to Gibraltar through the receivership of Cammell Laird in the UK which could so easily have plunged Gibraltar back into the sort of difficulties that we experienced at the time that Kvaerner pulled out and after which it took the Government a year to find an alternative operator for the yard. It has been saved because the management of the yard has appreciated the potential that the yard in Gibraltar has and has made a buy-out, a management buy-out of it from the receivers of its parent in the UK.

Several things are important to remember when considering what has occurred. Firstly, that Cammell Laird in Gibraltar was not in

liquidation and was not in receivership, it simply happened to be an asset, the shares in Cammell Laird Gibraltar were an asset of an English company in the UK which was itself in receivership, and therefore what has happened is that the owner of those shares, now the receiver of Cammell Laird UK, has sold those shares to the management of the previous management now continuing management of Cammell Laird Gibraltar Limited. There has therefore been a change of ownership of the company Cammell Laird Gibraltar Limited. There has not been a change in the operator in Gibraltar. There has not been a change in the company that has the commercial agreement for the Government, that has the lease of the yard. That remains as it has always been Cammell Laird Gibraltar Limited. What has happened is that the previous shareholders of Cammell Laird Gibraltar Limited, namely Cammell Laird Group UK, has sold its shares in Cammell Laird Gibraltar Limited to new parties who are in effect not just the local management of Cammell Laird Gibraltar Limited, but includes in a majority measure the founder of Cammell Laird in the UK, namely Mr John Stafford. Certainly, in so far as the Government are concerned, and we have already said this publicly, we have absolute confidence not just in Mr Stafford but indeed in the local management of the yard whose confidence in Gibraltar and in the yard in Gibraltar has been such that it has enabled the operation to continue in Gibraltar completely, seamlessly, as opposed to in the UK where there have been job loses. Not only have there been no job loses but its even been possible to reassure the work force even during the moments of uncertainty.

There is no injection of public funds into this project, into this deal. There is no fundamental change to the basic documents existing between the Government - I will just mention one or two things in a moment - Cammell Laird Gibraltar existing leases remain in place, the existing commercial agreement remain in place, everything remains in place.

What the Government have done in order to compensate the management, the new shareholders, for the investment that they have made in purchasing the yard and their commitment to

continue to operate it, is that we have, well I suppose I ought to start a bit further back. The original lease that we gave to Cammell Laird Gibraltar Limited had a rental for the hiring of the yard schedule, which was profits based for the first few years. A percentage of profit. Now the percentage of profit would have taken us to a certain figure. What we have done for the benefit of the new owners of the yard is that we have put the clock back to what it was when Cammell Laird first arrived. In other words, the same rent regime but it starts again, as if this was year one for the purpose of the rent calculation clause except that we have introduced something that was not there before, which is a minimum payment which they pay us even if they make insufficient or no profit at all.

The other main area where the Government have, without injecting public funds, facilitated at the buy-out in commercial terms, is that, during the last six months of their operations in Gibraltar, presumably as a reflection of the fact that the group as a whole was experiencing a cash-flow shortage. In the last six months of their operation the local yard had fallen into arrears of payment of PAYE and Social Security and the Government have entered into an agreement for the repayment of those arrears in a way which guarantees the payment of a minimum amount each year and guarantees that it will all be paid back within a maximum of five years. Mr Speaker, the operation of Cammell Laird or of a ship yard in Gibraltar, as I am sure the hon Members will agree, is very important to our economy, not just because of the jobs that it provides directly to residents in Gibraltar but even because of the jobs that it provides to non-residents of Gibraltar who nevertheless contribute to the economy through the payment of taxation to the Government. Not least in this economic value is the employment and the economic activity that it generates elsewhere throughout the economy in port operators, in tug companies in metal work companies, in a whole range of service companies throughout the economy. Therefore, I think it ought not to be underestimated the extent to which this quick buy-out of the yard by its management avoiding the possibility of a close-down in the hands of the receiver has avoided a considerable degree of economic trauma for Gibraltar.

Mr Speaker, another sector of the private sector economy which has undergone both growth and more recently an element of uncertainty is the Offshore Gaming Industry. Offshore Gaming has provided a valuable contribution to the economy and Government fully expects it to continue to do so. There were when we last gave information to this house, nine licensed companies employing, as at the 24 April, a total of 629 people of whom 572 were full-time and 57 were part-time and of those 572, 204 are Gibraltarians and of those 204, 183 are full-time and 21 are part-time.

Ladbrokes employs a total of 225 out of the total of 629 in the sector. Of those 225, 90 are Gibraltarian of which 71 are full-time and 19 are part-time. Ladbrokes have announced that it will, sometime between October 2001 and January 2002 transfer at least its UK customer call centre from Gibraltar. It is not yet clear what impact this will have on employment levels in this sector but it could at least in the very short term be substantial. Ladbrokes have said that 138 jobs are at risk, although they have not suggested that all 138 will be lost.

In addition, and since we last discussed this issue in the House a small company dennissportsbet.com which used to employ seven employees has closed down for reasons, which the Government believe are not, although it is said to be connected with the change in taxation in the UK. All the employees bar one that were made redundant by dennissportsbet.com have been absorbed by the remaining employers in the sector. There are two applicants to establish new gaming operations in Gibraltar. Others are expanding and therefore the Government are confident that whatever may be, what will be the short term consequences of any scale-back by Ladbrokes of its operations in Gibraltar, the Government are confident that as we go forward into the future the sector will continue to employ around 600 people.

Mr Speaker, Financial Services have also had another very good year. The level of employment and activity remains buoyant. In this sector we are facing perhaps the stiffest challenge to our economy in the next two or three years. We have not just the



better known OECD initiative on so called harmful tax practices and their elimination, but we also have side by side with that, threats and challenges arising from the application by the EU commission of State-Aid rules to tax regimes that EU code of conduct of business taxation and the proposed EU directive on taxation of savings income.

Speaking to the OECD initiative, the Government have said and speak to the industry on the basis that the central tenets of the Government's approach which enjoys almost complete support from within the Finance Centre Industry are the three following central tenets:

Firstly, that Gibraltar's status as a main stream Finance Centre of the highest standard and repute must be maintained; secondly, that we must seek and ensure a genuine and effective global level playing field in respect of the substance and the implementation of the OECD report, and thirdly, that we must seek and ensure certainty of what is required of Gibraltar and other jurisdictions in the context of those reports. And the Government's position and their management of all the various issues that arrives during the process reflect all three of those considerations. In so far as the eventual implementation of any commitment that the Government may give to the OECD is concerned, the Government's further intention is that the vast majority of the underlying uses to which clients of our Finance Centre currently put Gibraltar, will continue to be available on the basis of no or nominal taxation as at present.

Mr Speaker, an element of uncertainty has been injected into the whole debate and the whole process by what one might euphemistically call the spanner that the US has thrown into the works, in the form of the radically different attitude and approach of the new Bush administration to this initiative of the OECD. Gibraltar in common and in key, common with all the other centres involved, awaits clarification of the consequences of the extent of that US spanner both as to the substance of the OECD report and to the time scales attached to the OECD report, especially the July deadline for the giving of the commitment

letter. The United States position appears to be that they are able to support the transparency criteria that they are able to support the exchange of information criteria, but that they are unable to support the third criteria namely the ring-fencing criteria. They also have reservations about the sanctions regime that is threatened against non compliant jurisdictions. All of these uncertainties are key and crucial to the position that is ultimately adopted by Gibraltar and the other reputable Finance Centres that remain to give their commitment. We have now more or less settled the terms of the letter of commitment that we would give to the OECD, when we give it, subject only to amendments that would need to be introduced into it to reflect the consequences of the American position whilst that has been clarified between the United States and the OECD.

I have also given in this House before information relating to the second of the challenges that Gibraltar's finance centre faces and that is the legal challenge arising from the decision of the European Commission to take infraction proceedings against Gibraltar, and incidentally many other places in the community, alleging that tax regimes in our case are finance centre tax regimes, but in other countries other tax regimes that are not Finance Centre related, breach European Union State Aid Rules. Much, but not all of the arguments raised by the European Commission under the State-Aid Rules, becomes subsumed in the OECD report and compliance with it. Hon Members may also be aware that the Government are currently engaged in a resistance of the arguments. We are at that phase of the proceedings where the commission gives written notice of its arguments, of its views and invites the parties to give its own views in response. This is sort of the pre-formal infraction proceedings stage, that is the stage that the matter is at and the Government are engaged in an attempt to rebut the arguments used by the European Commission to apply or to extend to Gibraltar's tax regime the EU Treaty rules related to State Aids.

Thirdly, there is a challenge represented by the proposed EU taxation of savings directives. If of course it emerges, given that it

is subject to what are called sequencing provisions, which means in effect that the community will not adopt it for itself unless certain named third countries and the overseas territories of all the Member States agree to adopt the same measures in the case of dependency and overseas territories or equivalent measures in the case of third countries such as the United States, Switzerland and Andorra. But there is as I have also indicated to this House in the past, an issue of level playing field in this matter as well. Hon Members are aware, at least from explanations that I have given to them before, even though they were not otherwise aware, that at the Feira Council last year, the agreement reached between the Member States of the community, abolished the option of withholding tax instead of exchanging information for everybody and replaced it with a system of exchanging information only for everybody, but, allowed three Member States, three full Member States of the community the option during a transitional period of seven years to choose between exchanging information and applying a withholding tax on savings.

I believe that it would be the height of unfairness, and the height of inappropriateness, if Gibraltar were to find itself in a position where it has to exchange information for tax purposes with countries of the European Community whilst three fully fledged Member States, amongst them Luxembourg, one of our competitors with an infinitely bigger Finance Centre and therefore an infinitely bigger threat to the Treasuries of the other Member States, is allowed not to exchange information for seven years. The Government of Gibraltar have made their position in that regard, explicitly and unambiguously known to Her Majesty's Government in the United Kingdom with the full support of the Gibraltar Finance Centre Council. Whilst reviewing the issues that affect the Finance Centre, there is also the question of our obtention of investment services passporting, having obtained them already for Banking and Insurance, the third, and we believe the most valuable of the three passporting badges is in Investment Services that is to say, Investment Advice, Collective Investment Schemes, Mutual Funds, Unit Trusts, things of that sort.

Gibraltar is committed - indeed it was a commitment entered into by the previous Government and reflected in our legislation - to matching United Kingdom's standards of regulation even when they are higher than European standards, and that we do.

In the context of Investment Services Passporting, there is now a request by a well requested need requirement, it depends how one views life in Gibraltar, by the United Kingdom that we should match as a precondition to obtaining Investment Services Passporting, not just their standards of regulation of Investment Services Business, but also, that we should mirror the United Kingdom's Investor Compensation Scheme. The United Kingdom's Investor Compensation Scheme is so vastly excessive and more onerous than the requirements of the European Union directives, that if we implemented the United Kingdom scheme it would be tantamount to neutralising the benefit of Gibraltar obtaining Investment Services Passporting. Investor Compensation Scheme has got nothing whatsoever to do with the standards of regulation. Indeed, investor compensation only becomes relevant when the regulatory system has failed because that is the only time that investors come to be compensated. The fact that it has little to do with regulation is reflected for example by the fact that in the United Kingdom the Financial Services Authority is not responsible for the Investor Compensation Scheme, if it were a regulatory matter one would expect the regulatory body to be responsible, it is not. So, if Gibraltar were made to implement the United Kingdom Standard of Investor Compensation, which not only applies a higher quantum of compensation but also applies to a wider range of activities that is required by the directive, we would find ourselves in what I can only describe as the obscene and perverse situation where a Greek Financial Services Company, with whatever dubious standards of regulations they may apply in that country, is free to passport into the United Kingdom on the basis of its Greek regulatory system. But a Gibraltar Financial Services Company would only be able to passport into the United Kingdom if we meet the much higher Investor Compensation Standards even though our industry, unlike the Greek one, is regulated by a regulatory authority which is appointed by and is accountable to

the British Government. I would have thought that that was a reason for relaxing, are not the requirements imposed on Gibraltar compared to what the Greek's are allowed, rather than increasing them. I can tell the hon Members that this is an issue in which the Finance Centre Council has advised the Government to make a stand and upon which the Government have every intention to do so.

Gibraltar is entitled to benefit from EU membership including in the areas of Financial Service Passporting, just as we are made to suffer the consequences of European Union member without the United Kingdom picking and choosing what extraneous hurdles it puts in our path and the idea that the Treasury in the United Kingdom uses the grip that it believes it has on the handle of our right to access our EU rights and uses that leverage to extract from Gibraltar unrelated extraneous things that they want from us is unconscionable and disreputable a way in which to handle the important economic interests of Gibraltar.

Mr Speaker, local trade has a variety of issues which it raises with the Government which require solutions and remedial action, which the Government recognise requires solutions and remedial action and about which local trade now across the board of the sectors legitimately complain, not least amongst them is our Postal Services.

Mr Speaker, the quality of the Postal Service is an indispensable element of the success and growth of our economy. In keeping with their now well known and established policy preference of introducing necessary change by dialogue, discussion, consensus and agreement, the Government are leaving and will leave no stone unturned in trying to carry with us all relevant parties in the implementation of the very necessary reform, modernisation and restructuring of our Postal Services. And if and to the extent, that includes, more resources from the Government, greater investment by the Government, the Government will certainly stand ready to deliver all of that and contribute in equal measure with others to the solution of our problems in the Post Office.

What nobody should consider is an option is the holding of a mortgage over the reformed process. Therefore, the only avenue, the only conclusion which is not available as an option is the failure to introduce substantial reform, modernisation and greater efficiencies in the Postal Services.

There is no excuse or reason why in a place the size of Gibraltar, mail should not be delivered within 24 hours of it being posted and that is the objective that the Government seeks to achieve and we now have possession of the report. It will be the subject of detailed and intensive discussions with the Unions. We are most interested in hearing their contribution and their views of things that might positively contribute to a sustainable, modernisation and improvement in our Postal Services but it has to be achieved by the end of this year at the outset. The Government will invite the Trade Union representatives to join with it in providing to this community a quality of service to which this community is entitled.

This community attaches importance to the fact that 30 odd people earn their living in the Post Office and their jobs are important to this community. But it is also worth remembering that the Post Office does not exist for the purpose of providing jobs for the 30 people that work in it. Its primary reason for existence is to provide a Postal Service of the necessary quality that the community is entitled to and of the quality that the taxpayer pays for. And that is what the Government are determined that business and non-business sectors of our community will receive.

There are justifiable concerns about issues affecting the Telecoms sector. It was not that long ago that we were all in crisis about the lack of telephone numbers, but as it was overtaken by an even bigger crisis, somehow the lack of telephone numbers has been able to be relegated to second spot. It remains a very important serious problem that Gibraltar has run out of telephone numbers. There are very promising signs now that the access, that is to say the 350 problem, the inability of people to access Gibraltar is ameliorating in the sense that the

amount of incidence of that problem is diminishing as a result of certain new commercial arrangements that Gibtel has concluded with companies that account for the lions share of incoming traffic into Gibraltar. But of course, it is not enough that the problem should be getting better. What the business community is entitled to, what Gibraltar is entitled to, is that it should be no more complicated to telephone Gibraltar than any other part of Europe and certainly any other part of the civilised world, if it is still politically correct to use the phrase 'civilised world' and therefore suggest some parts of it are not.

Mr Speaker, I have to say that the Government have so far been unable to instil in the British Government a degree of urgency in relation to the resolution of this problem commensurate with its importance to Gibraltar and its economic consequences to Gibraltar. It is important that the British Government should deal with this issue, not as just one more Gibraltar problem to be so pigeon-holed, but on the basis that it ought not to be acceptable to Her Majesty's Government in the UK that part of Her Majesty's realms within the territory of the European Community should in effect be subject to telephonic isolation of the sort that has resulted from the lack of telephone numbers, from the inability of people to reach even the numbers that we have and all arising from her warm allies refusal not only to recognise our 350, which is an ultimate desire, but to actually put into place perfectly pragmatic solutions to the problems and its consequences regardless of the question of recognition of 350.

There is expectation for the liberalisation of the Telecommunications Industry in Gibraltar, and indeed, for the reduction of tariffs relating in particular to international traffic.

Mr Speaker, the final pieces of the legislation which involves the subsidiary legislation, the regulations and the licensing documentation are now ready and it is expected that the implementation of the EU directives to liberalise our telephone industry in the terms of the EU directive and in the manner of the

EU directive, since there are those in Gibraltar who fear that this is going to be a lip-service, I wish to reassure people in Gibraltar that the Government have no intention of introducing lip-service liberalisation. This will be full and proper liberalisation on the terms of the directive and in keeping with the spirit that underlies that regime and will be introduced now very, very soon, certainly, this side of the summer. Those things are important not just for the competitiveness and growth of our existing business but also as a vital leg in the important policy commitment. The Minister for Trade and Industry has recently made public statements explaining the Government's policy commitment to the development of Gibraltar as a hub for EU commerce.

Strangely, perhaps for some people, but not so strangely for those of us that are close watchers of this particular scene, what businesses now complain about is their inability to recruit trained labour. In other words, even though we have 330 odd unemployed people, businesses complain about their inability to recruit people and particularly their inability to recruit people with the necessary skills which is now becoming a constraint on their growth potential.

Mr Speaker, the Government have understood and appreciated the importance of training for this purpose from the very outset. This is reflected, in the expenditure that the Government make in training schemes. It is already widely accepted in Gibraltar that there has been an explosion of quality training in the last four years and that there has been an explosion of targeted training in consultation with the private sector who are best placed to know what their needs are, and this is reflected in Government expenditure on training. In 1999–2000, that is to say the last year but one, the expenditure on training was £2.75 million. It is forecast to have been £3.37 million in the year ended March of this year and it is estimated to increase to £3.56 million in the year started in March of this year and in which we currently are.

Just on the delivery of training courses, the costs of training courses as opposed to all expenditure on training infrastructure,

expenditure was £960,000 in 1999–2000. It has risen by 35 per cent to £1.375 million in the last and the current year.

Mr Speaker, this is a very significant expenditure on training and a very significant increase in the expenditure on training which reflects the fact that the Government have attached, attaches and will continue to attach importance to training issues. Another issue that the private sector constantly raises with the Government as a perceived obstacle to more prosperous private sector economic activity is the question of summer hours in the public sector. It is not the policy of the Government to eliminate summer hours in the public sector, as the Chamber and others have requested. Government are certainly willing to consider whether provision can be made to keep certain key departments open for business during the afternoons in the summer but that would require the agreement of the staff and therefore the Government will now for this year engage staff representatives in discussions to see whether there is any package that the Government can propose that will get the staff to agree to provide some sort of service in key departments for the private sector.

There are issues still out there of fair competition on the level-playing field. Course operators, transport hauliers are areas in which proposals are at a very advanced stage for publication soon and this means that local operators should be protected from external competition of the sort that they are not allowed to in turn provide in the home markets of the companies that come to compete with them in their home market and certainly port operators and transport hauliers fall into that category. And of course, Mr Speaker, another area in which the Government are about to announce measures I would have thought sometime during summer, is the whole issue of licensing hours and opening hours by which a wide consultation process has taken place.

Moving to the public sector, Government finances remain sound in the context of the various economic policy objectives that I have described at the beginning. The reserves including funds especially including reserves which are available to the Government for expenditure which is not all special funds and

balances in Government companies are forecast to stand as at 31 March 2001 at £33.1 million.

They had been on the 31 March 1999 as high as £49.4 million. The extent of the reduction, in those reserves is due to the significant incinerator litigation settlement and also the expenditure on the purchase of blocks 1 – 4 Europort for the acquisition of the new hospital.

On the basis of the projections for capital investment and recurrent budget surplus for the current year, it is projected that the reserves at the end of the current financial year, that is to say as from 31 March 2002, will stand in the order of £28.5 million.

Public debt, Mr Speaker, had stood at a net £65.2 million in March 1996, fell during 1998 and 1999 to £61.4 million, rose during 2000–2001 to £70.6 million and is estimated to rise to £80 million during the course of the current financial year as the Government have recourse to a degree of borrowing funds some of their major capital investment projects. At the extent to which the public debt will rise from £70 to £80 million depends very much on the extent of the current year surplus, on the budget and also on the extent to which income can be generated from other sources from the Improvement and Development Fund, for example, by the sale of Government properties.

Mr Speaker, moving specifically to the Consolidated Fund and recurrent expenditure, as has been said the forecasting for the financial year just ended, revenue of £146.9 million, expenditure of £136.9 million and therefore for the year just ended we are forecasting a gross surplus of £10 million which falls to about £9.3 million when one takes account of £700,000 worth of debt repayment and things of that sort. Hon Members will notice that the budget surplus forecast for the year 2000-2001 at £9.3 million is substantially less than the £18.4 million achieved in the year 1999–2000. This, reflects certain items of expenditure that have risen. It reflects Government tax cuts and it reflects increases in expenditure especially in the area of Education, the Elderly and Social Services.

Mr Speaker, on the expenditure side the hon Members will have noticed by now from their perusal of the Estimates book there, that the actual expenditure in 1999–2000 was £121.2 million and that the forecast expenditure for the year 2000-2001 is as I have just said £136.9 million. Therefore, talking now not about budget surpluses but about expenditure increases, purely, there has been an expenditure increase year on year of £15.6 million, and it is interesting, to just cast a quick eye on the items that account for that increase of £15.6 million as between the years 1999-2000 and 2000-2001. They relate mainly to higher scholarships, increased expenditure on the Gibraltar Health Authority, increased expenditure on training, increased expenditure on refuse disposal and water desalination resulting from the fact that our incinerator plant is out of action. Very substantially higher expenditure on fuel purchases arising from the increase in the price of oil and therefore the contractual, not just the cost of the electricity that we burn in our own generating station, but the contractual charge that we have to pay to OESCO, that alone accounts for £2.5 million of the £15 million increases in expenditure. A financial contribution to GBC of £500,000 to meet funding deficits in previous years. Increase expenditure in social security, pay awards in the public sector, very significant increase in expenditure in the Elderly Care Agency and in the Health Authority and a very significant increase in expenditure on gratuities and pensions in the public sector arising from a coincidence of retirements in that particular year.

Mr Speaker, the current year estimated expenditure is £141.8 million which when compared to the previous years £136.9 million provides for an increase of £4.9 million. That £4.5 million is mainly accounted for by personal emoluments of £1 million, industrial wages of £500,000, and supplementary provision of £3 million.

Mr Speaker, it is the policy of the Government to curtail unnecessary recurrent public expenditure so as to maximise the resources available for capital investment, tax cuts and expenditure increases in areas of public services and public expenditure which make a real and meaningful contribution to the quality of people's lives and the areas of public expenditure that

make a real contribution to the quality of people's lives are those which contribute to the social and economic development of Gibraltar. Health, Education and Training, Elderly Care, Social Services to provide a modern social security safety net, not in terms of cash handouts but in terms of support services for the most vulnerable members of our community.

Investments and expenditure in our sports, in our leisure and in our cultural pursuits. Expenditure in promoting our economy. Expenditure in law and order, through the funding of the police and expenditure in our living environment through the beautification expenditure, cleanliness and enhancing of cleanliness arrangements and the introduction and possibly subsequent upkeep of planted areas.

These are the areas in which the Government seek to target public expenditure, because these are the areas where they make a noticeable difference to vulnerable members of our community in certain sectors to certain areas and to all members of our community in almost all the areas.

Turning to the Improvement and Development Fund, hon Members will have seen that in the year 2000 - 2001, that is to say, the financial year just ended, we managed an Improvement and Development Fund of about £19.1million.

We are estimating for this year a £25 million capital investment spend and these £25 million will be financed by an increase in public debt of £10million, by the estimated current year surplus and drawing from reserves of £10 million. Grants mainly from the EU and property sales amount together to £4 million and by a balance currently held in the Improvement and Development Fund at the start of the year of just over £1 million.

Mr Speaker, this is the mechanism by which we fund one of the three principle objectives of our economic policy the one that invests in facilities for present and future generations. The £25 million is focussed mainly on a continuation of the Government's programme of public housing refurbishment and lift installation

programme, on the project to reopen the Theatre Royal, on the infrastructural work on our schools, particularly the buildings of gymnasiums and school halls. Three major ones, as I said earlier, going on simultaneously, an investment for the benefit of the Tourism Sector in the Northern Defences and the World War II Tunnel project. An investment also for the benefit of tourism but also as a recreational facility for residents in Europa Point is the Nuns Well area. An investment in St Michael's Cave lighting and sound and other facilities. An investment in a refurbishment of our land frontier entry point, Four Corners and in our beaches and a continuing extensive programme of road construction, road resurfacing and beautification and these will include;

Main Street, to the extent that it has not already been done, Catalan Bay Village refurbishment scheme and the Upper Town Urban renewal schemes, which as hon Members know, has been mapped out to the public by the Government already. There is a programme to continue to refurbish Government buildings and thus improve the conditions of work of many hundreds of civil servants. No. 6 Convent Place is now being done. The Income Tax Office is now being done. The Post Office building is currently being done and this is part of the Government's programme to progressively and systematically regrade, refurbish and upgrade Government buildings.

There is a significant investment in our drain system and in rock face stability works. There is very significant investment in the new sports facilities in Bayside in the Bayside area. There is significant investment in the new hospital projects. There is significant investments in the two new industrial parks that are currently under construction. There will be significant investment in the building of multi-storey car parks.

The Government have a desire to build three multi-storey car parks in areas of Gibraltar where there is a particularly acute parking problem, which adversely affects the quality of life to people in that area and we hope to have completed, or at least, completed some and made a very significant start on

others during this term. I believe significantly there will be expenditure on a brand new, modern, clean, efficient, bus service of which Gibraltar can be proud, not just in terms of the quality of the service, but in the modernness and the attractiveness of the new vehicles that will be purchased for the purpose.

Mr Speaker, I just want to flag, in addition to all the ones which I have briefly reviewed, certain areas where Gibraltar needs to make short, medium and long term investment.

We need to make investment in a new incinerator plant. We need to make investment to comply with the European Union directive in an urban waste water treatment plant. That will be a significant investment which is estimated to cost anything between £15 million and £20 million.

We need to make a significant investment and we make annual provisions, the hon Members may have noticed, in rock-face stabilisation works. We need to make massive investments which has not been done in the past except where new roads and estates have been laid in our sewage systems. These are areas of what one could call the buried or forgotten, or the politically electorally less valuable investment, but which nevertheless, need to be made if we are to have a prudent approach to the long-term development of Gibraltar so that we do not bequeath to our future generations massive problems that they may not then be in a position to deal with and the Government certainly have every intention of tackling each of these issues.

Mr Speaker, I have noticed of late, a certain degree of comment about the future of GBC and I do not wish to pre-empt anything that my Colleague the Minister with responsibility for GBC may say on that matter. I have already said that the Government do not regard the re-launching of GBC to have been a success. I have already said that the Government therefore consider that the future of GBC has to be revisited. But it is also true that public service broadcasting in Gibraltar is important. It is also true that

the Government attach, and I believe this community does and should attach, to the continuance of GBC, a considerably high degree of value and priority. There is a new Chairman of GBC who is not responsible in any measure for any of the position that he has found and who deserves an opportunity to get to grips with the problems that he has inherited at GBC. The Government have every intention of providing full support to the new Chairman of GBC to ensure that GBC has a viable, prosperous and from a broadcasting and financial point of view, successful future.

What the Government are not willing to allow GBC to become is a new or a Government department whereby the concept of "where the money will come from", becomes academic to the day to day lives of the Department or the function. GBC enjoys the full support of the Government for its future. It needs to, very substantially, improve in many areas of its life, its performance and the Government will require that to happen, will support the new Chairman and his new Board as they go about doing that and we wait to see what happens.

The Government are not a bottomless pit of funds for GBC, nor can its employees consider the Government to be its paymaster when it comes to its pay and conditions of employment.

Government want a successful GBC in which the staff is motivated, well paid and accordingly will deliver the product that we all want. I think it is important when reading commentaries about GBC to distinguish the objective, fair, accurate criticism of GBC to which many people in GBC themselves would subscribe and would recognise as being fair, reasonable criticism and that criticism of GBC which comes from certain quarters of the media, which have always criticised GBC whether they have been doing well, badly or indifferently for reasons of their own, but of course the fact that there may be problems at the moment, provide, in a sense, a field day for people who fall into that category. Certainly the Government know how to distinguish between what is criticism that comes from the second category, which we will ignore, and what is criticism that comes from the first category with which we will certainly deal with.

Mr Speaker, at the last budget session of the House I gave hon Members an indication of the importance that the Government attached to the audit function and to the importance of ring-fencing, isolating, putting distance between the Principal Auditor's Office and the Government given that the function of the Principal Auditor constitutionally is to audit the Government, it was therefore the view of this Government that what was inappropriate for the Principal Auditor's Office, given its function is to audit the Government, to form intimately or intrinsically part of that Government so that the staff were movable, the resources were controllable in a way which could have affected the Principal Auditor's ability to carry out its function of auditing the Government for the benefit, if not just of the community at large, and indeed, for the benefit of this House and its function as a watch dog of the public purse whilst it is in the hands of the Government.

I reviewed last year some of the measures that the Principal Auditor was intending to put into place and I am happy to say that most of all that has been put into place. So, for example, we have now as from the 1st November 2000 the "Gibraltar Audit Office" as it is now called, is a "closed department", that is to say, staff transfers or promotions into it and out of it are now not allowed. This means the Principal Auditor has a stable, trainable, permanent staff that can go gaining knowledge and experience in auditing techniques and that he does not lose staff when a promotion opportunity arises in the Tourism Department or in the Port Department to which staff that he has spent years training naturally seek to move on promotion to better their personal position.

This is an important development that will result in a very substantial enhancement of the resources and the quality of the resources available to the Principal Auditor to perform his audit function. And in compensation to the staff, all of this has been done by agreement with the staff, those members of staff that did not want to live under this regime were offered a transfer out of the Audit Department to another Department. The ones that have stayed because they wanted to, and the ones that have been



recruited from outside the service to bolster the numbers in the Audit Office are being paid a premium of about 12.5 per cent, I think it varies slightly from grade to grade, but I think it is about 12.5 per cent over their salaries to compensate them for the very reduced promotion prospects that flow as a natural consequence of working permanently in a Department of seven or eight or ten people without the ability to opt for promotion Civil Service wise. So, those are important developments. There are additional resources. There is an addition of a new grade of two senior posts at Audit Manager level and an Auditor and the Principal Auditor now has available to him a staff structure and numbers which much better equips him to do the full range of its audit functions in a timely fashion.

Mr Speaker, in terms of the staff employed by the Government, the number of salaries, that is to say, non-industrial staff shown in the Estimate booklet for this year stands at 1,628 compared to 1,612 last year. The overall increase is therefore of 16 posts and they are scattered in small numbers right across the service.

The cost of salaries, that is to say, non-industrial staff has increased estimate on estimate by £3.8 million, that is, 8.16 per cent. The net cost of the extra 16 posts is calculated at £365,000, with the 1999 and 2000 salary increases and increments accounting for £2.952 million of the £3.3 million. So of the £3.3 million increase, £2.952 million reflects the fact that there are 2 year's worth for the increases of the civil service on the whole and £365,000 of it is the provision for these extra 16 posts.

In terms of the industrial staff, the published number of industrial staff this year stands at 575 compared to 578 last year, reflecting a reduction of 3 posts, two of them are in the Port Department and one of them is in the Electricity Department.

The cost of industrial staff is to increase by £414,000 overall or 5.5 per cent from last year, the outturn £392,000 or 5.2 per cent when one compares it to the last year's estimate. So it is a 5.5 per cent increase over last year's forecast outturn and 5.2 per

cent to the increase if one compares it to last year's estimates and this is mainly due to wage increases.

Mr Speaker, in the Gibraltar Health Authority, the Estimates, show 634 employees broken down by 537 non-industrials and 97 industrials, as at the 1<sup>st</sup> April 2001, compared to 649 as at 1<sup>st</sup> April 2000, that is to say 649 last year and 634 this year. We have doubts about the accuracy of those figures. They are being reviewed as we speak and we will hope at some point during our addresses and certainly before, hopefully before the Minister for Health finishes and his Colleague in the Opposition rises to speak, to have given the hon Members figures whose accuracy we can endorse as to the exact number of employees in post in the Health Authority as at 1<sup>st</sup> April 2001.

In so far as concerns the GDC employees we had as at 1<sup>st</sup> April 2001, 157 compared to 143 as at 1<sup>st</sup> April 2000. The GDC financial provision for its staff includes provision for 158, that is to say for one vacancy over the 157 in post and that is in respect of the Commercial Executive in support of the Commercial Executive function in the Department of Trade and Industry and in addition to these 157 soon to become 158 posts in the GDC there are 47 temporary posts comprising 27 Lifeguards, 14 Tourist Visitor Information Patrol staff and six Data Input Operators who are presently supporting the Department of Social Services with the unified collection system, which is being financed by the GDC.

Mr Speaker, I am happy to report that the construction of the input/output model of the Gibraltar economy is now close to completion. There has been something of a delay because the authors of the report had farmed-out the number crunching, that is to say the processing and computation of data to a company in India whose activities were severely affected by the recent earthquake in the North of India and that unfortunately appears to have caused two or three months worth of delay. But, we have only this week received some preliminary estimates, which of course should be treated with some caution at this stage, but which nevertheless make potentially interesting reading. The figures so far show that GDP in 1998-99 exceeded £400 million

with almost 25 per cent of this attributable to the Finance Services Sector. The researchers point to the substantial international portfolio of the Finance Centre.

Tourism emerges as a major leading sector particularly in terms of its contribution to income generation and Government revenue. Overall, the multiplier values for each sector are lower than those seen in the previous study some 10 years ago which is said to reflect the increase in openness of the economy. That is to say, the increasing amount of leakage in the economy flowing from the opening of the frontier.

Mr Speaker, once this model is complete, and that is expected within the next few months, it will provide an important basis for evaluating the detailed impact, possible changes in the overall tax structure and for the construction of more accurate national income data and economic statistics generally for Gibraltar.

Moving to the Government's taxation policy, hon Members will recall that the fourth strand of the Government's economic policy objective is the Government's commitment to affordable, sustainable and progressive reductions in personal taxation, as indeed we have been doing every year since we have been in office since 1996. There are three elements to the policy to achieve the implementation of this objective as we move forward from here in future years, and these are the following: Firstly, to simplify and modify the current tax bands and thereby delivering tax reductions to all tax payers but in particular middle income earners; secondly, to target extra help to those on the lowest income and who deserve to benefit in greater measure from any reductions in tax that the Government can afford over the years and, Thirdly, to reduce the top rate of tax which currently stands at 50 per cent.

This year the Government wish to make a start on each of these three elements of tax policy implementation. In 1999 we already doubled the 20 per cent band from £1,500 to £3,000. New measures this year are the following: In respect of the first of the three strands of tax policy that I have just described, that is to say,

the simplification and the modification of the current tax bands, the tax band of £3,500 at 40 per cent is abolished. Of those £3,500 which presently constitutes the 40 per cent tax band, £2,500 are added to the lower band at 35 per cent and £1,000 is added to the higher band at 45 per cent.

The net effect is worth between £75 and £125 a year and it is estimated that this will benefit about 5,500 tax payers. In order to make a start on the implementation of the second structural reform that I have announced, that is to say, the targeting of extra tax help to those on lowest income and therefore most in need, the Government are to introduce a system of tax credit which will be introduced this year which will return a cash lump sum to every tax payer that has an assessable income of less than £7,000 a year. So the tax credit will be a mechanism by which anyone, who upon submission of his tax return at the end of the year, shows that he has had an income of less than £7,000 a year from his earnings at work will receive a cash sum back by way of credit from the Government, but it will result in a cash sum, and this year the start that we make is that, that sum will constitute a tax refund in the sum of £100. But the mechanism of the tax credit stands as the means by which Government return particular refunds of tax to those on the lowest income thereby targeting tax cuts specifically at those on the lowest income. It is estimated that this tax credit system will benefit this year about 6,400 taxpayers estimated to be eligible to receive the tax refund of £100 that the new tax credit system will deliver. And by way of a start on the third element of tax policy implementation that I have outlined, namely, the gradual reduction on the top rate of tax which currently stands at 50 per cent, that top rate of tax is this year reduced by 2 per cent to 48 per cent. It is estimated that this will benefit about 1,500 taxpayers.

Mr Speaker, these measures represent a start in the implementation of the three principal mechanisms of taxation reform that I have outlined as being the mechanisms which the Government will apply to deliver their continuing commitment to properly structured sustainable tax cuts in the future. In addition to this structural reform, personal allowances will increase as

follows: The personal allowance will increase by £125 to £2,300, that is to say, 5.75 per cent. The wife's allowance will increase by £90 to £2,150, that is to say, by 4.5 per cent, and the same will apply to the single parent family allowance, it will rise by £90 to £2,150 that is, 4.5 per cent. The child allowance will rise by £55 to £800, that is to say, an increase of 7.5 per cent. The first child studying abroad allowance will rise by £70 to £900, that is to say, by 8.5 per cent. The second child studying abroad allowance will rise by £85 to £750, that is to say, a rise of 12.75 per cent. The disabled individual allowance will rise by £165 to £1,350, that is to say, a rise of 14 per cent. The Nursery School allowance will rise by £115, that is to say, to £650 by 21.5 per cent. The age allowance will rise for single people by £75 to £550, that is to say, an increase of 16 per cent. The married couples age allowance will rise by £100 to £780, that is a rise of nearly 15 per cent. The house purchasers allowance will rise from £10,000 to £11,500, that is to say, by £1,500 or 15 per cent for purchases after the 1<sup>st</sup> July 2001. The blind persons allowance will rise by £125 to £500, that is to say, by 33 per cent.

The House will notice that these allowances are significantly in excess of the rate of inflation and in themselves and in addition to the reforms that I announced just a few moments earlier, deliver further tax cuts right across the board of tax payers in Gibraltar.

In relation to taxation and the elderly, last year we introduced the elderly persons tax exemption whereby men under the age of 65 and women under the age of 60 with assessable incomes less than £7,600 were totally exempt from taxation in Gibraltar. There is a tapering-off relief, applicable since the scheme began, which gives a tapering-off or a reducing degree of relief to those with incomes between £7,600 and £9,000.

In my New Year Message, I announced that the current system would be extended to increase the number of elderly persons covered by it. This will be achieved by increasing the number of persons benefiting from the tapering-off relief. The tapering-off relief will now be calculated by reference to an individual's

assessable income over £7,600 and his or her entitlement to other allowances.

In the case of a married man aged 65 and over, the tapering-off relief will extend to an income of £10,285 so where as before the tapering-off relief only applied to those with incomes between £7,600 and £9,000 as of the 1<sup>st</sup> July 2000, in other words, retrospective to the 1<sup>st</sup> July last year, the tapering-off relief will now apply for people with incomes between £7,600 and £10,285 in the case of the year 2000-2001, in the case of married men aged 65 and over.

In the case of a single man or woman aged 65 and over, the tapering-off relief will be extended to an assessable income of £12,550. So whereas before, the tapering relief applied between £7,600 and £9,000, now it will extend between £7,600 and £12,550 in the case of a single man or woman aged 65 and over.

In the case of a single woman aged 60 or over but less than 65, the tapering-off regime relief will apply between £7,600 and £13,025 compared to the previous £9,000.

Mr Speaker all of these extensions of the upper limits of the income range which benefits from the tapering-off regime, the marginal relief for those with incomes above £7,600 will very dramatically increase the number of old age pensioners that get a significant degree of reduction in their tax burdens.

The figures that I have announced just now, will be applicable retrospectively to the 1<sup>st</sup> July 2000 for the tax year just ending on the 30<sup>th</sup> June and the changes do not affect the complete exemption from taxation for those with incomes less than £7,600.

Mr Speaker, the Commissioner of Income Tax will soon make a detailed public statement as to how elderly persons should proceed to claim this new additional and significant relief of tax against their income. But allow me to indicate, the new tapering-off relief is the product of a complex calculation which combines the extent of income above £7,600 that any person has, together

with the various allowances that he has from other places, from other parts of the income tax rules. Therefore, every time we increase those other allowances there has to be a change to some of the figures, an increase in some of the figures in the elderly persons exemption and tapering-off regime to ensure that the value of that tax exemption and tax reduction through the tapering-off marginal relief rules is maintained. Therefore, consequent upon the increases in personal allowances that I have just announced for all tax payers, the numbers applicable to the elderly persons regime will increase and change with effect from the tax year commencing 1<sup>st</sup> July 2001.

Basically, the upper limit of the income threshold is increased in all cases. In the case of the married man aged 65 or over to £10,290, in the case of the single man or woman aged 65 or over to £12,670 and in the case of the single woman aged between 60 and 65 to £13,220. The level at which there is complete exemption rises from £7,600 to £7,760.

Mr Speaker, whilst on the subject of the elderly, hon Members may be aware that new rules require elderly persons to renew their driving licences at age 70 and to do so every three years at the cost of £6 which is the licence fee chargeable by the Government. In order to assist not just those but indeed all persons of pensionable age, as of now, there will be no charge to persons of pensionable age for the renewal of their driving licences at the Government Transport Department.

Mr Speaker, my Colleague, the Minister for Trade, Industry and Telecommunications has recently made statements relating to the priority and importance that the Government attach to the encouragement not just of e-commerce but of information technology as a whole.

To further encourage investment in information technology and also to further encourage the acquisition of personal computers by private individuals and thus lead to an ever increasing degree of information technology amongst our population, which will not only contribute to their education but also to the economic

prosperity of Gibraltar in the future, the following measures will be introduced with immediate effect.

Import duty on all computer hardware and software is abolished for a period of at least one year to provide a window of opportunity of reduced retail prices. Secondly, businesses that invest in computer hardware or software may deduct 100 per cent of the cost of that investment in the first year, that is to say, in the year in which they make the acquisition up to a limit of £50,000 per year and this is in addition to the current general first year capital deduction allowance of £30,000.

Mr Speaker, other measures in relation to import duty to assist certain retail businesses who are suffering particularly from uncompetitive trading environment as a result of the strength of sterling against the euro is that the duty will be reduced from 12 per cent to 6 per cent on the following items:

Luggage, handbags and small leather goods which are tariff number 42021200 and then a variety of tariff numbers dealing with sewing needles, sewing accessories, curtain hooks and paraphernalia, cushions, quilts and pillows which are aspects of the haberdashery trade which stayed out inadvertently, I imagine, on the reduction in haberdashery from 12 per cent to 6 per cent that occurred last year.

Mr Speaker, last year we also announced a seven month, which was eventually extended by a few months, window of opportunity to import commercial vehicles free of import duty. Following the earlier halving of import duty on non-commercial vehicles, that is to say private cars, commercial vehicles now remain at a higher rate that is at 18 per cent. Import duty on commercial vehicles will therefore be slightly modified so that they are the same as for non-commercial vehicles. That is to say, the commercial vehicle and the non-commercial vehicle will be treated the same for import duty purposes by reducing the import duty on commercial vehicles from 18 per cent to 12.5 per cent for vehicles under 1500cc, 15 per cent for vehicles between 1500 and 2000cc and 17.5 per cent for vehicles over 2000cc. Hon Members may

recognise those as the duty rates currently applicable to private vehicles.

Other measures to deliver a degree of help to businesses are that employers will no longer be required to make training levy contributions whilst their employees are on maternity or long term sick leave. Finally, Mr Speaker, during the course of the coming months, Government will announce measures to provide for reduced Social Insurance Contributions in respect of certain casual and part-time workers. This will, in addition to providing a relief to certain businesses that particularly rely on that type of labour, will assist in the creation of part-time work for those members of our community who by reason of preference or family commitment can only work part-time and are subjected to a disproportionately high level of Social Insurance Contribution for both employers and employees, which firstly discourages the creation of part-time work, and secondly, means that the employee suffers a disproportionate deduction from their part-time earnings.

Mr Speaker, the budget balances all of Gibraltar's needs, economic, social, cultural, environmental, in the short, medium and long term. It is a budget that keeps Gibraltar on its current course of collective and individual development as a people and a community. It provides for ever improving social and elderly care services, health services and educational services and facilities, as we would all want for our families. It invests for the future but it is fair to our current generations. I commend the Bill to the House.

The House recessed at 12.30 pm.

The House resumed at 12.35 pm.

Discussion invited on the general principles and merits of the Bill.

HON J J BOSSANO:

Mr Speaker, I propose to commence my contribution on the general principles of the Bill now and then hopefully at a convenient point stop and resume after lunch. Let me say that the mover has developed a different approach this year to that of the presentation of the Estimates last year and the year before that in 1999. I think he spoke by way of introduction for one and a half hours before he got round to talking about the general principles of the Bill.

The main characteristics of his first one and a half hours was the unprecedented use of the word "unprecedented". I know that he got the dutiful clapping at the end of his contribution that I suppose is required, but in any case, even without that, the level of indulgence in self adulation must stand out in the chronicles of public statements in the House, I think as quite exceptional. I do not know whether the length of the contribution is a reflection of his recent visit to Havana, where he may be following the example of the Leader of that particular country. If that is the case, then I am afraid we are in for very long sessions in this House and he started today with setting a new bench mark of two and a half hours, which presumably will be progressively increased with the passage of time till he starts competing with comrade Fidel at six and seven hours a slot. I regret that the Chief Minister refused to allow me to ask to repeat a figure that he had provided. Let me say that it is not a long established practice in this House that hon Members do not give way, therefore, I was not seeking to establish any precedent. Indeed, last year I interrupted him to ask for an explanation of the use of public reserves which he had not used in previous speeches because I was not very sure what he was talking about, and he accused me of wanting to cross examine him. I think it is not a reflection of any established practice in this House, but a reflection of the Chief Minister's personality and character that he seems to resent anybody questioning him or perhaps it is that when he starts quoting figures, he needs the gap between now and the final speech so that he can come back and ask people for explanations of things which he cannot explain. It may be one or

it may be the other. Certainly, although it did not do me any good in the context of my present contribution, what I wanted to ask him was the figure that he gave for the cost of wages where he said it reflected a 5.5 per cent over the original estimate of the preceding year and a 5.2 per cent over the forecast outturn and those percentages did not sound quite right to me and I wanted to be sure that I have not misunderstood the information he provided. I cannot really see why asking such a simple question would have interrupted his long discourse that followed about all the wonderful things that he is doing. I think there is a saying in Spanish in relation to people who need self-praise of themselves that they do not need grandmothers. One characteristic about today's contribution is that he does not need any grandparents at all.

There is one point in his contribution which I need to signal our disagreement on, in particular, it is a point that has been made before and it is a point that I have made to him before and the last time it was made some years ago he actually accepted the argument, although he seems to have forgotten it or maybe since he chooses to delve into everybody's ministry, Mr Speaker, I certainly I am not going to in my contribution about the general principles of the Bill, I am not going to go into whether the coaches were up or the coaches were down, because I think that is a matter for the Minister for Tourism. In the past when I have asked specific questions, he has said that is the nitty gritty of the thing which other Ministers' deal with and he has dealt with the overall picture of the economy. On this occasion there is one particular aspect which he has mentioned, which really is a departmental responsibility but which raises serious issues of policy, although he may not have intended to say what he said and it might simply be that he is not sufficiently knowledgeable about the subject matter to realise that what he is saying means one thing and what he may be intending to say should be drafted in a particular way and that is this question of the job seekers agreement and social security. The last time the argument was put in the House, I pointed out to him, that people who get unemployment benefit, which is social security, are not being paid by taxpayers. This comes from the short term benefits fund and

there is no contribution from taxpayers to the short term benefits fund. This is an insurance that people take out against their own unemployment. A person can be working his whole life and never claim anything back or he can have in the kind of labour market we have today, where there is a turnover of 4,000 jobs a year, he can have the need to make use of that insurance several times, because he works for eight or nine weeks and then he becomes unemployed. To suggest that people should over and above the requirements in the Social Insurance Ordinance be able to claim unemployment benefit, which is that they register and that they should have paid sufficient contributions, have the possibility of that being removed from them through some other kind of agreement is completely unacceptable and I consider that to be in breach of the very principle of social insurance. It is a completely different kettle of fish if they want to do something on social assistance, which is money paid out of the social assistance fund and is not contributed by the beneficiary in terms of insuring against unemployment risks.

The last time this was said in the House several years ago, the Government accepted the distinction and said that they intended it to be in respect of social assistance and not in respect of social security. Now they have gone back to calling it social security to the extent that he actually said that there are people who make a professional habit of not working and collecting social insurance contributions, which is complete nonsense because how on earth could they be collecting social insurance contributions. Contributions is what they pay, not what they collect. What they collect is unemployment benefit and they are perfectly entitled to it. Of course, if they make a life time professional habit of not working, they would not be able to collect social insurance unemployment benefit because they would not have had the contributions to be entitled to it. In any case, if the Chief Minister is arguing that a level of about 300 is the kind of level below which it is not possible realistically to have unemployment driven down because there are always people in-between jobs, then where are all these people who make a professional habit of not working? Does the Chief Minister not pay any attention to the statistics that are given in this House by the Minister for Employment, who has

in answer to Questions produced figures showing a breakdown of the unemployed who are collecting unemployment benefit, which is limited to 13 weeks, those who are collecting social assistance, which is a very small proportion of the total, and those who are collecting no benefit at all. The number of people on social assistance out of the 300 odd unemployed, is already a very small number out of the total. I hope that it is not that it is their intention to interfere with people's rights to unemployment benefit for 13 weeks, which is already lower than in many other parts of Europe in terms of the length in which it is paid. In Spain people get paid unemployment benefit for up to 18 months. In Gibraltar we are limited to 13 weeks and then after 13 weeks, it is a means tested benefit. In fact, there are more people who do not qualify than those who qualify. There have always been people who have difficulty in holding employment, not because they are work shy, but because they have either emotional, psychological or social problems which make them, from the point of view of an employer not a very sound investment. Therefore, their ability to compete for jobs in the market is considerably reduced. There are some people who the Government themselves recognise to be in that category and tend to give sheltered employment to, which is the right approach. I am not saying that there is no one at all in Gibraltar that is not guilty of the offence of making a profession out of living on social assistance, but let us be clear, if there are people who make a profession and prefer and choose to be on social assistance, it must be obvious to the Government that they do not really need to do something about the job seekers allowance, they need to do something about finding what is their other source of income, because it is a sheer physical impossibility to choose to live on social assistance and live a life where one can meet ones commitments, perhaps exceptionally, unless one has got half a dozen small children and one gets additional support. I would have thought that rather than introducing a major new approach in this field, I am sure that the people in the department would be able to come up with specific individuals that might perhaps require closer scrutiny, and that we are talking about people that one can count on the fingers of one of two hands. On that as a matter of an indication of a policy to be introduced in the next 12 months, I have to say to the

Government that it is not something they should engage in. They seemed to be on the point of doing it several years ago when unemployment was higher. I thought that they had accepted the point that in order to deal with what is a very small problem, there are already, at their disposal, means of correcting that and pointless to say that what we have got is a situation where there are persons who as a result of their dependence on social assistance are living as a considerable burden on the taxpayer. Mr Speaker, the amount of assistance that has been given to the business community with rates is enough to keep the people who are suggested to be a considerable burden on the taxpayer on social assistance for several life times. That was given, and it was recognised at the time, to some businesses that were doing very well, who had no particular need for that money in terms of being bailed out by the Government.

In responding to the final hour of the contribution being made by the mover, which is on the general principles of the Bill, as opposed to commenting on all the things that have been done in the last 12 months or in the last 24 months or in the last five years, because it is quite obvious that the strategy in going through this long list is that if one mentions the hospital as something that is going to be included in the Improvement and Development Fund this year, which is perfectly legitimate, because they are voting money for that in this year's budget, but of course, one also says the considerable work that has been done this year and the fact that something was done the year before, we have just finished celebrating the Casemates, having had Casemates on our menu since 1996. I am sure it will still be on the menu for more years to come and I have no doubt that what we will see is that if every park bench and every potted plant is going to be listed as part of the enormous efforts that this Government are making in improving things in Gibraltar, then indeed, the Chief Minister may eventually outpace even Fidel Castro in the length of time he will need to take up in going through every single penny of the £150,000,000 he is spending in terms of all the glorious improvements, which are unprecedented in the whole history of Gibraltar.

To raise the minimum wage to £3.75, we are told is an improvement which has had no parallel since the Gibraltarians started governing themselves, that is since 1945. I almost thought he was going to tell us it was since 1713 or 1704, but no he will probably do it in his closing speech, because having thought of it he cannot possibly think he is the most exceptional human being Gibraltar has produced since 1945, there must be something wrong with that, he is being too modest, it must be since 1704, Mr Speaker. The £3.75, if one is to believe the official statistics of the Government in the Employment Survey, is hardly going to be obtained by anybody because in the figures on earnings in the Employment Survey there is virtually nobody with a wage below £3.75, in October 1998. I do not know what it is now, but in October 1998, which is the last Employment Survey tabled in this House, if we look at the private sector distribution of earnings in terms of basic wage and overtime, which is detailed by sector, there is hardly anybody – I know that there is an average, the fact that the average is £4.00 or £3.90 does not exclude the fact that there may be some people below £3.75 and some people above £3.75. It is an indication that there are very few people indeed in full time employment, there may be some in part-time employment below that rate and I think in terms of industry the only kind of industry that I know of that is paying that level of wages below £3.75 are people like Security Guards. That hardly qualifies for the adjective that it is the most important advance that we have seen in the conditions of ordinary working people since 1945. Although the Chief Minister made no contribution to it, other Ministers did make a contribution to what was, is and will probably always be the biggest advance in the working conditions and standard of living of people in Gibraltar in terms of earnings in employment and that was the battle for parity which took four years. To suggest that to put the minimum wage at £3.75 or to remove the different treatment between industrial and nonindustrial in the Government service, all of which are welcome improvements, therefore nobody wants to say to the Government that what they have done is not a good thing, it is a good thing, but it is not the best thing since sliced bread or the best thing since the Second World War.

Therefore, in considering the picture of the economy, which has been presented as the background within which Government spending and indeed Government decisions on changes in tax systems and in other areas, no indication has been given by the Government as to whether the effect of these changes are already written into the Estimates or not. I recall that last year when the Government announced the introduction of the social assistance for pensioners, which they called the minimum income, which was described as a different kind of social assistance system with different rules, there was no provision made at all in the Estimates to meet this cost. It is a fact that therefore the additional expenditure during the course of the year was because they did not put in the money at the beginning of the year and they had to put in supplementary funding during the course of the year. I do not know whether it is now the intended practice to announce things but not in fact to put even token sums into the budget to meet this or to announce changes in the tax system and not take into account in terms of the expended yield of that tax system the effect of those changes.

I will therefore, Mr Speaker, stop at this point and when we resume after lunch I will move into giving consideration to how the presentation of the state of the economy this year compares with what has been presented in the past, and how the available information relating to past claims of unprecedented success either support or negate those over exaggerated claims. I will interrupt my speech at this point.

The House recessed at 1.00 pm.

The House resumed at 2.35 pm.

HON J J BOSSANO:

Mr Speaker, I finished before lunch by saying that in responding to this year's presentation of the Estimates of Revenue and Expenditure, I must necessarily go back to statements made by the Government over a number of previous years since it is only after some years that it is possible to establish whether the picture



that gets painted currently is reflected in the official published statistics eventually or whether the statistics contradict that picture. What is therefore the state of the economy today is not going to be known for sure until some years hence but what we can say is that the figures now available, which relate to over two years ago and are the latest available, do not support what was being said then. In 1997, the Government stated they would not make a prediction on gross domestic product because employment information was not yet available to the Government's Statistician. I will deal shortly with the question of employment information, but at the same time, in that budget four years ago the Government said the national income for 1995/1996 was probably about £330,000,000. However, they were of the view that this was not an accurate number of the size of the Gibraltar economy and they announced their intention to review the way the national income was being increased. The fact is that it is only today that we have had some indication available of the output of Gibraltar's economy. The figure has been put tentatively at £400,000,000 and we have been told that £100,000,000 of that is generated by the Financial Services Industry. Let me say that until we see the nature of the methodology and the way the figures have been arrived at, we will have to reserve our judgement but I would say that as an off the cuff reaction, it seems to me that if £100,000,000 is the Finance Centre and one adds the gaming industry, the retail trade, the tourist industry, the Government itself and the ship repair yard, then it adds up to more than 100 per cent of £400,000,000. I presume that when the report is finalised it will be made public and we will be able to make an evaluation of its content. We have been waiting for this for a long time, Mr Speaker. In 1999, two years after the announcement, it was stated that the position was that the production of a new model of the Gibraltar economy, that is an input/output study was to be constructed and that the Government had appointed economic consultants to carry out this exercise and that it would take one year to complete. A further two years on, it is still not ready, although we were told in Question No.459 of 2001, that it would be ready in a couple of months time. There has been this timely earthquake intervening to justify the non arrival of the report, but of course, since we have

been promised this since 1997, it will be a hell of a lot of earthquakes if it explained the failure for this to be ready before the earthquake started.

The only basis upon which the Government argue that the economy is performing well today is on the basis of the annual increases in Government revenues, and I certainly remember when the Chief Minister used to argue that the revenue yield to the Government was not necessarily an indication of what was happening in the private sector of the economy. We have therefore nothing tangible on which to go and given what I mentioned earlier about the employment surveys, I need to remind the House that also in 1997, the Government stated they considered employment to be on a rising trend, although they qualified this evaluation by saying that the figures then available, which was for April 1996, were 15 months old, were still provisional at a global 12,980, after describing the techniques for computing employment statistics as at best shocking, the Government proceeded in 1998 to change the technique. We expressed doubts on the wisdom of this change and did not support the move, which they defended on the basis that it would produce more accurate and more up to date information. To date we have figures published for October 1998, now two years and five months out of date. It seems incredible that the figures for one month, that of October 1999, should not even be available provisionally 17 months later. Given that these figures are an essential ingredient in the computation of the gross domestic product calculation, as stated by the Government in 1997, it indicates that when eventually the GDP figures are produced incorporating employment and earning statistics, they will be totally out of date. What do this two and a half year employment figures tell us of what was happening in the Gibraltar economy and what was the House being told at the time in the 1999 budget?

The Government were claiming that the growth of jobs in the private sector was most encouraging and quoted the 244 new jobs in Victor Chandler. At the time the official figures available in the House were for April 1997 and up to that date, there was no

sign of growth in the private sector overall. During 1998, answers to questions on the labour market, again, showed no growth although this information was defined as raw data subject to revision. By last year, when we debated the Bill on the Estimates of Revenue and Expenditure, the official figure for October 1997 and April 1998, were available and still there was no growth in total private sector jobs. Now, we have the October 1998 survey results, the results of a questionnaire filled by employers in the private sector stating how many people they had in employment in October 1998. This is in the middle of the 1998/1999 Financial Year and therefore relevant to the claims of growth in employment made by the Government in the 1999 budget. The numbers in full time employment in the private sector in October 1998, was 7,279 and of this, Gibraltarians filled 4,335 jobs. Rather than growth, this shows lower numbers in full time employment than in any previous survey. Is it that the growth has taken place after October 1998? In the whole of 1998, according to the employment surveys 4,021 persons started work and 3,995 lost their jobs, a net gain of 26 for the whole economy, full time and part-time, private and public. One year ago in the budget session, the Government claimed that the finance centre provided 2,000 direct jobs and probably as many again indirect jobs. Relying then on the Employment Survey of April 1998, I questioned whether the sector represented 50 per cent of the whole of the employment market in the private sector and doubted that this could be right. As we now know the total figure for private sector employment in 1998 was smaller than the April figure and therefore the 4,000 would have been an even higher percentage. By January this year the Government claimed that the size of the private sector, experienced a further 25 per cent increase in the size of the finance sector component and in the New Year message, it was claimed that now 5,000 jobs depended directly and indirectly on the finance sector.

Mr Speaker, important and valuable though the finance industry is, there is not one shred of evidence to support this exaggerated claims in the official statistics Tabled in the House or in the information given to Answers to Questions. On occasions it has been argued that the growth has been in self-employed

professionals who are not recorded in the Employment Survey reports. In answer to Question No. 450 of 2001, the Government stated that 1,430 tax assessments on self-employed persons had been raised in the tax year 1995/1996. The number of assessments in respect of every subsequent tax year was below this figure. Moreover, the numbers issued in the quarterly contribution schedules in respect of self employed persons in the first quarter of this year, stood at 929, and although we do not have the figure for the second quarter, it is still a long way off from the tax assessment figures that I quoted earlier, which were given in answer to Question No.450 of 2001. In 1997, the Government defended their expenditure plans by saying it would enable the private sector to grow to generate many more places of work than existed in that financial year. There is no evidence of such overall growth in the two subsequent financial years. It remains to be seen whether the figures in respect of subsequent employment statistics, when these are eventually available, show the kind of growth that we have been told since then and that would justify in some measure the claims being made by the Government. Certainly, we will be monitoring that when they are Tabled in the House and raising at question time any discrepancies that we spot in those statistics.

One of the measures introduced by the Government in 1997 was the 20 per cent reduction in rates for the business community. We questioned the wisdom of this measure at the time. The House was told that the underlying philosophy was so that businesses who were already paying their rates on time could grow and employ more people. There is no evidence in the period after 1997 that this has in fact been achieved in terms of employment statistics. Secondly, there would be, we were told, improved collection of rates and improved cash flow to the Government, and thirdly, the Government were going to take a much more aggressive approach and get tougher with those not paying. If we look at the comments of the Principal Auditor in the last audited accounts which also relates to 1998/1999, everything stops in 1999 - anybody would think the earthquake happened then – we find that this other two objectives did not materialise either. Rates arrears stood at £4,850,000 at the end of

1998/1999, an increase of 5 per cent over the £4,620,000 due in 1997 and rose further to £4,870,000 by March 2000. The incredible thing is that the blame for this apparently lies with the Treasury and it was the Financial Secretary who brought the measure to the House where a target of 20 summonses a week was set in 1998, now it is stated this was rarely achieved because of the time it took the Treasury to authorise the go ahead. Indeed, between July 1999 and February 2000, authorisation virtually came to a standstill. We are told that the courts grant an order to pay but the Treasury approval is required before proceedings can follow. The Principal Auditor says, and I quote, "Failure to invoke the full force of the law on recalcitrant debtors will have a detrimental effect on the recovery process given the public perception that the final step is never taken". This is quite extraordinary considering that in 1997, the Government told the House that many businesses did not pay, not because they could not afford to do so, but because governments in Gibraltar historically had not been particularly aggressive in pursuing defaulters. Given this believe, the Government should explain how the Treasury decides who should be pursued and who should not, what criteria they apply in giving authority to proceed and who has the final word.

In 1997/1998 £11,191,752 was collected in rates. If we look at page 9 of this year's Estimates, we see that for 1999/2000, £11,184,651 was collected, lower than in 1997/1998 when the new approach was introduced. This year the Estimates have been reduced to £11.4 million, expected to be collected from the expectation of one year ago of £11.6 million. That indicates to us, Mr Speaker, that notwithstanding the concerns expressed by the Auditor, there is no indication that there is an expectation of being more successful in collecting rates this year, than they were last year and less than they hoped to be able to achieve at the beginning of the last financial year. The picture that emerges in respect of rates is repeated in other areas, all of which the Government announced in 1997 were now being aggressively tackled. Indeed, in the same year, the Central Arrears Unit was set up, we are told by the Principal Auditor that electricity arrears in 1999 rose 5.8 per cent to £5.3 million and he comments, "It is

evident from the available data that the arrears position, which I described in my last report as being seriously out of control, has further worsened. At the same time ground and miscellaneous rents arrears grew 7.1 per cent and in respect of the Europa Business Centre, the increase in arrears was a colossal 28.5 per cent". We are told in the report that the Central Arrears Unit has been concentrated on PAYE arrears because it lacks the resources to tackle the many other areas of arrears recovery with which it has been tasked. In the case of social insurance, which provides revenue for the Health Service and the Social Insurance Pension Fund, the estimated arrears is of the order of in excess of £13 million. The Principal Auditor tells us that this estimate invariably includes amounts which are irrecoverable and which could amount to several million pounds. In this year's Estimates the money level of the Unit is being increased by one AO. Mr Speaker, in the light of the Principal Auditor's comments, I wonder whether this is sufficient in terms of human resources. Surely there is an argument for deploying additional manpower to this area if that would result in better collection since it would pay for itself, and given that this has been what the Government informed the House was their policy in 1997. We are now four years down the road, I would have thought that in the context of their declared commitment to crack down on recalcitrant payers who they claim to be more numerous than we thought, they would want to do this. In 1997, the Government said that the arrears were the result of insufficient tough action and not just difficult trading conditions. If the private sector has been performing so well, as the Government claim, then it must be making handsome profits and there is no reason why it should not be up to date with tax, rent, rates and social insurance. Of course, if the Government are wrong and the private sector is not prospering as well as it is claimed, then the expected collection of arrears would not materialise irrespective of how many more people they deploy to the Unit because people would not have the ability to pay. One interesting statistic, indicating what is happening in terms of company profits, is the information provided in answer to an earlier question this year, which showed that a mere £600,000 had been collected from 1,064 companies with profits of less than £3,000 per month and which are subject to a 20 per cent rate. It

was the 166 companies with higher profit levels and paying the standard rate of corporate tax that were responsible for paying to the Government in excess of £10.2 million to be exact. That suggests that it is the bigger and the stronger companies that are prospering and that the smaller ones were not doing well now or were not doing well in 1997, subject to the fact that all these statistics are of course historic and that we do not know what is actually happening today. We urged the Government therefore in 1997, that in looking at ways of assisting the private sector it should be channelled to those in need, and we believe that the information that we have got given in answers to questions tend to justify that that approach would have meant that the money that was being put back into the business sector was being concentrated in the areas where it would have resulted in making it easier to collect arrears and where it would have resulted in some businesses not going under or having to be put into liquidation. As it is, the money has been given, I think I mentioned at the time the question of the bands and the Government's view was that to give the 20 per cent on a selective basis would be discriminatory and contrary to Government policy, we believe it would have been a wiser thing to do and we believe that the subsequent statistical evidence tends to support that view.

In this year's Estimates, Mr Speaker, we have been provided with a new page, which shows the Government reserves outside the Consolidated Fund and Improvement and Development Fund, which were the traditional ones that were shown on page 5 of the Estimates. The House will recall that last year when the Government in the course of the opening of the debate, first used the word "public reserves", I interrupted the Chief Minister and therefore if there was a precedent of interrupting a budget speech, it was created last year and not this year, and I do not think it was a precedent. In fact, the Chief Minister got very upset and accused me of interrupting him in order to cross examine him, so that may be why he refused to give way this year. He did give me the explanation of how he arrived at the figures that were given in the House then, but he gave it to me in his rounding up speech and I had to wait until then. He said then that there was a

£1 million in cash in Government owned companies available to the Government which would run down to £500,000 by this year. We find from the Auditor's report that the balances of Government companies was £4 million in April 1999 and therefore, given that we were told in April 2000, that it was £1 million and that it would be running down to £500,000 this year, I would ask the Government to explain the fluctuation in these figures which are very substantial and for which no other explanation has been provided. We are now being told that rather than going down from £1 million to £500,000 in the last 12 months, it has actually gone up from £1 million to £6 million. Mr Speaker, in page 6, which is a new page, it says that the forecast element of money in Government owned companies, which is now shown as part of the Government's reserves, on the 1<sup>st</sup> April 2001, was £6,300,000 and if we look at the opening of the budget debate one year ago, there it is stated in the closing speech, that the amount in the year 2000, was £1 million, that had not been taken into account because it was offset by a deficit carried in the books of the Health Authority of £1 million and that one negated the other and that it was expected to run down to £500,000, so instead of coming down from £1 million to £500,000, it has gone up from £1 million to £6.3 million, an increase in cash balances in the company of £5.3 million and £2.3 million of that is apparently going to be used over the next 12 months reducing the amount of money available to the Government in the year 2002, but of course, not accounted for by any expenditure in the Estimates because this is not information that has been conceded previously in the context of the Estimates, it happened for the first time last year when it was introduced for the first time.

We have heard that apparently the shortage of telephone numbers is now no longer as critical to the private sector as was previously being painted. We were being told not so long ago, when the Government were preparing to change their position on doing a deal with the Spanish Government on the use of the code, that this was because the health of the Finance Centre and the expansion of the business sector in Gibraltar was at risk and that the Government were under a great deal of pressure to go even beyond doing a deal with Spain and doing a world wide deal

from the business community. This has not been reflected in the statements that we have had in the House today. Therefore, one gets the impression that it is no longer as urgent and that the matter is at present not preventing business expansion notwithstanding the prediction that this was going to happen some months ago. In that context the report that appeared a few days ago in a Spanish news agency attributed to sources in the British Government was that the British Government were willing to do a deal with the Spanish Government on the question of excluding Gibraltar from the present phase of liberalisation in the European Union where Spain has sought to exclude the Gibraltar Airport once again, but that they wanted as a quid pro quo a relaxation on controls at the frontier and an additional number of telephone numbers for Gibraltar. The Government of Gibraltar have already indicated in answer to a press question that they are not in agreement to this and perhaps even that they know nothing of it. What it does, I think, raise a question on, is whether notwithstanding the clear statements in the House by the Government that they were not asking the British Government to seek additional numbers within the Cadiz code, the British Government nevertheless still are trying to get them. If that is indeed the case, then I think the Minister can add it to the list of things over which he is manifestly disgruntled with the approach of the British Government in terms of acting on behalf of Gibraltar and defending its interests. The other areas which he has mentioned in relation to the attitude of the Treasury come as no surprise. It is perfectly legitimate to argue that Greek companies who generally are considered within the European Union to be not amongst the best regulated in the Union as a whole, should have the right of passporting into the UK, whereas the position for Gibraltar companies is not the same and continues to be held up for totally unconnected and extraneous reasons. If the Treasury demonstrates that it is obscene and perverse as a result of this, let me say that I daresay the Treasury has always been obscene and perverse and that it is not a new development in the way they deal with things. In 1992, when the passporting rights were granted to credit institutions, they were granted to Greek credit institutions who were even then not as well regulated as the Gibraltar banks who were all in the main subsidiaries of

household names from other Member States. We had to wait a considerable time and although having done at that stage everything the Treasury had asked for, we were still given less rights to go into the UK than other people, and it was not just the Greeks, there were other Members of the European Union where the standards are considered to be one thing on paper and perhaps not quite the same thing in practice.

The other area where we are being told that there is a problem with the United Kingdom and it is interesting that the Government say that the Finance Centre Committee has advised the Government to make a stand and that the Government intend to do so, because we are entitled to benefits and the Treasury is using leverage to try and extract other things, which they are not entitled to extract, which Gibraltar has no obligation to do, and that the Treasury is unconscionable and disreputable to handle Gibraltar in this manner. All I can say is that presumably that stand and that battle will be taken on until the crunch point comes. When the crunch point comes presumably the underlying philosophy of the Government that they do not take on battles they cannot win will be triggered and then the stand will come to an end and we will all sit down and grin and bear it. *[interruption]* Mr Speaker, if there is one thing that the Chief Minister can say it is, that if I did it once he has done it exponentially since then. Given the fact that he likes to use this adjective of being unprecedented if he means extraordinary, he can apply this to all the times he has given in, and not only has he given in, he has given in and defended it as a virtue. I can understand that if he is actually with his back to the wall and has no choice, at the end of the day it is his judgement and his responsibility to decide which is the best way to deal with the situation, but to actually try and make a virtue out of a necessity, which ought not to be the position that any of us should be in, is really quite extraordinary.

The United Kingdom is not defending Gibraltar as it ought to in the Telecomms sector or in many other sectors and it is all very well to say that the United Kingdom Government ought to recognise that they have got an obligation in respect of Gibraltar as part of Her Majesty's Realm to defend it as it would itself, but it

has never done it. Regrettably, it is not going to do it. I think inevitably for as long as we are in a situation where the United Kingdom interests and the Gibraltar interests do not coincide, then there will be a point at which the Gibraltar interests takes second place. That is the very essence of what being a colonial appendix is all about. In every colony in the whole history of colonialism regrettably, the Charter of the UN says that the Imperial Government, the administering power is there to look after the people of the colony, to help them, to develop them politically, socially and economically, but it has never happened with anybody, not just with the UK, but in some respects UK has got a better track record than others. But in all respects France and Holland have produced better situations for some of their overseas territories than we or any of the other colonies have experienced. That is a fact of life and I hope that in the course of the current financial year, as we get on with developing our Constitutional proposals, we will be able to produce something that will enable Gibraltar to protect itself better and defend itself better when it comes to asking the United Kingdom to act in accordance with the wishes of the elected Government of Gibraltar, which is what I think they ought to be doing in representing what Gibraltar wants abroad. They ought to be the agents of the Gibraltar Government. At the end of the day we might not agree with the line the Government are taking and that is our right in this Parliament, that if the Government of Gibraltar consider that it is in the best interest to do something, whether we agree or not, it is not up to the UK to overrule the Government, because invariably in overruling the Government they are not doing it because they seek to protect the rest of Gibraltar from the Government's mistakes, but because there are some other extraneous interests which they are protecting. The Government mentioned this problem of the lack of suitably qualified people, which is now a constraint in the growth of the private sector, presumably in the growth since October 1998, because it was certainly not a constraint up to October 1998, given that in October 1998, there were less Gibraltarians in employment in the private sector than there were in 1996. Let me say that the number of Gibraltarians in the private sector includes the Gibraltarians in JBS, the Gibraltarians in Nynex, the Gibraltarians

in Lyonnaise. We discovered recently the Gibraltar Broadcasting Corporation are considered to be private sector. We do not know for sure, but it is possible, that the Gibraltarians in the Development Corporation may be considered private sector. The Gibraltarians in Gibraltar Community Projects are private sector. By the time we strip out all those private sector employees that depend on the expenditure that we are voting in this House today, the number of Gibraltarians that are in the remaining private sector, the private sector that makes his living by selling to private customers and to outsiders and brings money into our economy, is a very small proportion. Certainly, if there is a constraint in the year 2001, the constraint could not have been there in 1997 or 1998 and the employment was not being created. In that context two points were made, one was the increase in employment in January this year. I think I have pointed out to the Government in the past when we have looked at the unemployment figures in December in January, that there is and there has been for many years, a seasonal dip in December. That is to say, people tend to drop out of the register of the unemployed in December because businessmen do not take on people in the month of December if they can avoid it because it happens to be a month that has got less productive hours of work and more paid holidays. Consequently there is generally in every December a drop, not because of people getting jobs, but because of people not bothering to register particularly if they are not getting paid anything. If they are not on unemployment benefit and they are not on social assistance, then they tend to re-register in January. Therefore the jump from December to January does not require a major exercise of investigation on the part of the Government. It is a jump that was there in January this year and in January the year before that and in January before that. Of course, if the Government choose to pick the December figure and convert it as they tend to convert every figure that they find to suit their inclinations as evidence of their success, and if they were half as confident of their success as they claim to be, they would not need to go through these loops. If they say, "look how wonderful we are keeping unemployment at an all time low of 287", if they choose to convert it into a success, then inevitably they must accept blame for the fact that in January it goes up. The fact is

that it is neither a question of success in December or blame in January. The reality is that that is the normal seasonal pattern in December and in January. If the Government claim that they are being very successful in bringing in Offshore Betting shops and since 1997, the one area of the economy where there has been an actual figure of employment quoted, as opposed to the rest where there has been generalisation, has been in the Betting shops, then if they use it as part of their propaganda exercise to demonstrate how well they are running the economy, then if they go they will have to take the blame for it. As I said in an interview when I was asked about this, the fact is that it is not the fault of the Financial Secretary that they are going and it is not the wisdom of the Financial Secretary that brought them here, it was the stupidity of the Chancellor initially that brought them here and it has been the fact that the Chancellor has had to come to terms with reality that is taking them away from us. I think it is better when we debate these issues if we stick to things where we can make different judgements but the facts speak for themselves.

Hopefully, when and if we get more up to date figures it will then be easier to be able to make judgements based on official Government statistics as to what we are seeing in terms of revenue and expenditure is reflected by what is happening in the economy outside the Government sector. At the moment that is not possible and we still have no indication when the October 1999 figures will be available or why it has taken longer than ever on this occasion. Given that the revenue figures are high it does raise the question if the October 1998 figure does not indicate more people working, in fact it indicates less, how then is it that the amount collected in Income Tax is higher given again that there is no evidence of a major inroad being made in the reduction of arrears. I think one possible explanation from analysing those figures is if we look at the table that is included towards the end of the report, which shows the numbers whose earnings are in different brackets. That is Table 16 of the Employment Survey Report and this shows that people earning over £2,000 per month were 1,549 in the year October 1998 and that in the preceding year they were 1,420. Here we have a situation where between October 1997, it went up from 1,190 to

1,420 and 1,549 six months later. If it is the case that even though the private sector is at best static in the years up to 1999, the fact that there are more highly paid jobs possibly in some areas of the Finance Industry where people may be on commission basis or whatever and getting over £2,000 per month, then logically even if the number of tax payers has not increased dramatically, the marginal rate of tax being paid may be higher than in previous years because people are on the 50 per cent bracket, which is now going to be 48 per cent. Other than that, we have not been able by looking at the answers we have been given to the questions, by looking at the estimates in the expenditure and by looking at the employment surveys to try and reconcile the apparent flow of higher tax yield from personal income except on that basis. If the Government have some explanation which is realistic in the sense of being able to point in the direction of the source of information other than to make the kind of remarks, which we are accustomed to in the House, which is to say that everybody in Gibraltar except the Opposition knows that what the Government are saying is true, and everybody in the Chamber of Commerce says so and the Chamber of Commerce says it is on the crest of a wave and everybody in the business sector says it is booming, if they all say they are booming then there ought not to be a need for an Arrears Unit at all. That is all I can say, Mr Speaker, because clearly the position in that area as I pointed out from the comment in the Auditor's Report leaves a lot to be desired.

Coming back to the potential constraint and growth in respect of training, I did not attempt to interrupt the Chief Minister when he was giving these figures because I knew he would not be willing to give way. The figure that I put down was that in 1999/2000, there was spending of £2.75 million pounds on training and that in the year 2001, it was £3.73 million. I do not know exactly what these figures represent in terms of this year's or last year's Estimates, but obviously the Minister who is responsible for training can perhaps either when he speaks or at the Committee Stage give us a breakdown of where all these millions of pounds in training have been going because from what we can tell by looking at the actual Estimates before the House, in the Gibraltar

Development Corporation, what we have is an amount of money spent in the Employment and Training Board, which of course includes the running of the Employment Service and not just the question of vocational cadets and wage subsidies. Here we are not talking about £3 million worth of training, what we have is a situation which we have pointed to in years past where the amount that is going into training is a result of the £3 training levy from employers and indeed the policy introduced by the Government some years ago was rather than contributing to the cost of training the Government were trying to claw back money by charging the Gibraltar Development Corporation for previous contributions it had made in the past. It was defended on the grounds that this was being done in order to put back into the – Mr Speaker, I do not think the Chief Minister should sigh like that, after all I put up with him for three hours this morning, he should not take it so badly. If indeed the logic was that they are taking the money from the Development Corporation or attempting to take it, because on several occasions they put it in at estimate time and then for a variety of reasons the income and expenditure has not been what they anticipated and they have not been able to claw money back. Last year we were told, I think it was at the time that the Financial Secretary brought the Supplementary Appropriation Bill during the course of the year, that extra money was being voted from the Consolidated Fund in the financial year that has just ended because the contribution from the European Social Fund had not reached the budgeted amount, which had been £850,000. In this year we have got re-investment anticipated of £440,000 back to the Consolidated Fund. In the note at the bottom in note 3, it says “The reimbursement for the Consolidated Fund – Expenditure for Head 1B Training, page 24 and related employers social insurance and pension contributions”. That note would suggest that it is recovery of expenditure of the current financial year and not of recovery of previous financial years. That is not consistent with the explanation that was given in the Supplementary Appropriation Bill, because if there was a justification for seeking to take some money back from the Gibraltar Development Corporation this year, it would be the result of the explanation that was given when the amount was increased beyond the amount intended. That is

to say, if it is indeed the case that the European Social Fund ought to have paid into the Development Corporation for training purposes, £850,000 - this is on page 112, Appendix B – and only £67,000 was received and the £1 million in the current financial year takes account of the shortfall of last year, then consistent with that analysis, one would expect that the amount that was put in extra this last year would be recoverable because it was in a way, as it were, a breaching amount of cash put into the GDC pending the arrival of the money from the ESF. Apart from that, we have not thought it was a good idea to remove money from training in the previous years and as I have said although the attempts were made in many years it was not possible to do it and in any case, that logic has not been applied across the board in other areas where the money is being left in other funds. It is all in there, it is not as if the Government were not able at any time that they want to recover the money without even needing to claw it back. All they have to do is reduce the contribution from the Consolidated Fund if the GDC has got a surplus and then the GDC can carry on with its own surplus until it needs more money. That exercise, we do not think is justified, but it certainly runs across the self praise helped by the Chief Minister on himself when he told us today the millions the Government have been spending in training people as evidence of the explosion in training. In the terminology and the language of this Government, it is not enough to say training is up, there is more training, we have increased it quite a lot, no, it has to be an explosion, maybe the explosion in training is what brought the roof down next door. In terms of the available people for training, in relation to the 300 persons who are unemployed, and given that this figure of 300, as I have mentioned before, has always been considered, it was accepted by them in Opposition when we were in Government, that once one got down to 300, it became increasingly difficult to find slots for people, although an element of that 300 are people in very short term unemployment in-between jobs. But no amount and no many millions on training are going to convert many of those 300 unemployed into highly trained people with computer skills and the kind of areas where presumably we are talking there are constraints on growth. I imagine that what we ought to be considering is that if there is a demand for trained computer



literate educated young Gibraltarians, the supply ought to be from the people who are going to University. There the money has already been spent in training. Then maybe what we need to be looking at is post University training in terms of giving them something that is relevant to the opportunities in the Gibraltar job market, but I would have thought that rather than saying that in the context of e-commerce, the constraints on growth are because of the lack of skills in the 300 unemployed and certainly if the millions that have been mentioned, to my knowledge, have never been before this year identified in the context of the Development Corporation expenditure as being directly related to e-commerce. The schemes that we have had explained in the House by the Minister have been things like the vocation cadets, the hotel scheme, the construction training scheme and there have been the schemes for administrative skills, which he mentioned when we had a question as to whether people would be equipped to enter the civil service as a result of that training, and we were told that that would not be the case because they would still need to have their GCSEs in order to meet the minimum entrance requirements. That particular explanation which we were given in the introduction to the Estimates is not quite right and that explosion of training has nothing to do with e-commerce or with the kind of sums that have been mentioned, or else we need to have a breakdown of those sums so that we can see how they have been arrived at and related to what there is in the expenditure. In terms of the overall position of the income and expenditure of the Government, what is clear is that the growth of expenditure of recurrent expenditure and recurrent revenue, which has been taking place in the last four years, has not been the same. It was in 1997, I think it was, that the percentage increase in revenue was higher than the expenditure but in every year after that, it has been the other way round. That is to say, the annual expenditure increases have been higher than the revenue increases. The fact that that has been the case until now is not in itself an indication of what is going to happen in the future, even though the disparity between the growth of expenditure and the growth of revenue has been a clear trend for four years, that is to say, in the first year revenue went up by more than expenditure, in the second year the percentage was

higher in expenditure than in revenue and those percentages have been widening. It does not necessarily mean that that is going to continue the same, but clearly if it did, there could only be one ultimate result, that is the two parts would cross over and there would not be a surplus. Obviously given the statements that the Government have made about looking at balancing their expenditure and their income, the position would be identified and dealt with before it materialised.

In last year's Estimates, the Government told us that in looking at spending and in looking at revenue they had in mind, and they explained in putting it before the House that that was to help us understand their thinking, that they had in mind that there were revenue streams that were more vulnerable and revenue streams that were less vulnerable to extraneous pressures and that therefore, the thinking was that the distribution of expenditure was such so that the more secure revenue would always be enough to cover the more essential expenditure like health, education and so forth. Although that was a useful hint of the approach to the underline balancing exercise, no further indication has been given this year or last year subsequent to that particular phrase as to what we are talking about in terms of out of the total. Are we talking that in the context of recurrent revenue of £150 million and recurrent expenditure of £140 million, £100 million are the secure figures or £120 million are the secure figures, nobody is expecting an exercise that is scientifically accurate, but if the Government clearly have, according to the statement made last year, their own analysis if something happened unexpectedly as has been mentioned, if one day we are being told that there is an enormous threat to the Finance Centre, for example, from the OECD and then Mr Bush gets elected and the threat diminishes, then obviously these things can diminish or increase because of events outside anybody's control. In that context, and given that statement last year, I think it would be useful to know in terms of the £150 million how safe, how much of that element of revenue the Government feel confident that can withstand any unexpected blows perhaps not in the immediate future, because these things even when they happen do not happen overnight, but in terms of

the longer term scale, given that we have also been told today that there are longer or medium term commitments involving major areas of capital expenditure, which would need to be addressed in the not too distant future.

There are obviously, many things within the body of the Estimates that we will be addressing in the Committee Stage, but one particular one that I would like to point to the Government in anticipation of that happening, is that last year we raised in one of the Heads the fact that the office cleaning expenditure did not show the actual company carrying out the work, whereas the bulk of the Heads did, there was one that did not. The explanation that we were given in the House at the time when it came to the Committee Stage, was that this was because in that particular case the contract was in the process of allocation. This year they all seem to have disappeared except one, so this year, as compared to last year, whereas last year every Head showed who was doing the work, and I think there were about six or seven different companies, and only one did not show who it was, on this occasion only one is actually shown, which is in Education where there is a cleaning contract for ABC Services of £25,000. There is another £250,000 of cleaning contracts in the remaining Heads of Expenditure with no indication of who is doing the work. I imagine that it is not that they are all still undecided, but nevertheless I am pointing this out so that when we come to the Heads of Expenditure we will be asking who is doing the work.

Other than that, Mr Speaker, obviously in looking at the level of reserves, we are now looking at it in the context not just of the Consolidated Fund, but the other elements that have been introduced, as I said, in page 6 for the first time, and in looking at the expenditure side in the context of the amount that is being spent in development, we shall be raising matters directly in the Committee Stage in the Improvement and Development Fund and my Colleagues will be dealing in the general principles of the Bill with areas for which they are shadowing the Government.

HON MRS Y DEL AGUA:

Mr Speaker, the Ministry of Social Affairs, by its very nature, carries the awesome responsibility of meeting the ever increasing demands of the community at large within the socio-economic and political culture of Gibraltar. As I have discovered during my first year in office, this is no easy task, especially when the needs of society are so diverse, demands and expectations are increasing by the day, and there is obviously a budget that one has to adhere to. Be that as it may, I believe there have been considerable improvements in the delivery of social care within the last five years. Worthy of mention are the great inroads that have been made in the areas of Elderly Care, Social Services and providing services to those unfortunate people who fall prey to drug-misuse.

In the field of Elderly Care, the new Elderly Care Agency, which became operational at the beginning of last year is now well established and provides an excellent service to our senior citizens. This outgoing financial year has seen very good progress on many fronts. In June 2000 negotiations were finalised with ACTSS regarding the payment of nurses allowances, with Geriatric allowances, Shift Disturbance allowances, and Saturday and Sunday Working allowances being introduced. All members of staff have now attended basic Fire Safety and Hospital Evacuation Courses and NVQ training for nursing assistants will be introduced this year together with School of Health Studies. A manual handling course has also been delivered using the principals of ergonomics and all manual handling equipment is now in place as per EU directives on manual handling of loads. In November, further nursing staff was approved in the form of two more staff nurses and seven care assistants, bringing the complement of registered staff nurses to nine. This in turn, has allowed for a greater bed occupancy in Mount Alvernia from 67 in January 2000 to 84. A full time physiotherapist has also been appointed. The purchasing of a large number of specialist equipment now allows for a fully functional and well equipped physiotherapy department which now provides neuro-rehabilitation. This will improve the

rehabilitation of a wide variety of residents suffering from different pathologies and will thus allow some of them to return to their own homes. On the catering side, all staff have completed the Basic Food and Hygiene Courses. New menu plans have been introduced in consultation with the GHA dietician and a choice of daily menus will be introduced. I am also pleased to report that the Geriatrician has now taken up his appointment and is quickly familiarising himself with both the ECA and the GHA. A report on further improvements to services for the elderly is expected from him shortly. In last year's speech, I announced a major refurbishment programme and modification of the internal layout of Mount Alvernia. This was deliberately delayed with a view to engaging the services of the Design Team of the new hospital, thereby allowing us to maximise on the funds available and to capitalise on their expert advice in relation to specific refurbishment for elderly care. Tender specifications and requirements are expected to be finalised within the next three months. Once works are completed, a base from which to deploy extended community services, including meals on wheels, will be available.

I now turn to Social Services and the Disabled. The unitisation of the Dr Giraldi Home has now been completed. There are now three apartments which provide smaller and more private living homes for the residents with a separate respite unit allowing for four beds. The respite and sitting service is extremely popular and greatly appreciated by the relatives of the service users, with an increase in requests for the service being experienced.

The new fostering service was launched last week. All the preparatory work has now been finalised with adverts appearing in the press and media. A senior social worker has been appointed after undergoing training in the UK and work has been completed in terms of the identification of the first children that will require this service. The Fostering Service seeks to provide the best possible choice of placement for an individual child, either because of family situations brought formally before the Courts or as a result of reported family breakdowns with children known to be at risk. The current provision for children in care has hitherto

been restricted to Bishop Healy House, which cares for 18 children and young people ranging from a few months to 18 years of age. Government have acknowledged that the situation is inappropriate and have acted pro-actively in this regard. Coupled with the fostering scheme which in itself will go a long way to addressing this problem, plans are already underway for moving the Children's Residential Service away from Bishop Healy House to three small units. Each family unit will be adapted to provide for six children plus staff and will cater for the needs of the children and young people, appropriate to their age, ability and needs. Living in normal housing alongside their friends and peers will help to alleviate the stigma of care and will allow for more normal integration and inclusion within the community. One unit has already been identified and tender specifications for modifications to the same are now completed.

Once Bishop Healy House is vacated, hopefully by spring of next year, it will house a new specialist Challenging Behaviour Unit to provide better residential care for people with profound learning disabilities and to assist their personal development. Bishop Healy House will be re-modified and converted into two separate homes. One will accommodate five adults and the other will seek to meet the quite different needs of two children. This service will also help some families who are struggling to cope with children who present severe challenging behaviour. The units will be developed and supervised by two qualified managers in the field and will provide up to 20 new jobs of a full and part-time nature.

Another innovation in the field of social care is the establishment of a family centre in the basement of the Social Services Agency. The family centre concept is a well used system for working with vulnerable families, both as an education experience in child care, parenting, budgeting et cetera as well as a monitoring tool for children at risk. The centre will greatly enhance the ability of the Agency to provide preventative measures in order that families can be helped before they reach crisis point. Part of it will be developed as an interview area for suspected child abuse situations, providing for a less threatening and more private environment.

In trying to identify ways of assisting and bettering the quality of life of our elderly and disabled, Government are looking at the possibility of providing a purpose-built pool with adequate amenities. A possible site has been identified and the project is currently being studied. The opening of Gibraltar's first ever shopmobility centre, the brainchild of the Gibraltar Disability Awareness Group, is also now a reality, and Government are proud of having assisted in this worthy project by providing suitable premises and staff. I believe that the significant investment in all the new services I have mentioned reflects this Government's determination to provide the best of modern social care for Gibraltar and also demonstrates our commitment to meet the increasing needs of disabled and disadvantaged people in our community.

The Prison Service is another department where Government have provided considerable resources for the benefit of inmates and staff. The programme of refurbishment works has been on-going since 1996 and amongst many other things includes the incorporation of heating in all cells, the refurbishment of all ablutions, the construction of a new visitor's waiting room, and modern dental facilities within the Prison Healthcare Unit. Planned works for this financial year include refurbishment of the inmate's classroom and the incorporation of toilet and washbasin facilities within the cells.

Our ambitious programme of introducing a modern and effective computer system for the Department of Social Security is now well under way. I am pleased to say that the first stage of the project, the unified collection system has been successfully completed. We have received a good response from most employers and I have no doubt that all the parties concerned, employers, insured persons and the Department will benefit from this initiative. The second phase of the programme, which will hopefully commence this summer, will consist of computerising our manual benefits system. Once completed, this will enable the DSS to provide a better service to all our contributors. We envisage that all claims to benefits will be processed more speedily and will therefore be paid within a shorter period of time.

A pension forecast facility will also be available which will give contributors more information about their future pension entitlement. The present system of paying pensions will also be reviewed in order to improve the service currently provided.

The last financial year has seen Maternity Grants increased from £36 to £350 together with an increase in the standard rate of death grant. The two lower rates previously payable if the deceased was under 18 years of age have been replaced by a single standard rate of £350.

As the Chief Minister already mentioned in his speech, every person over 60 who lives in Gibraltar alone or with their spouse or another elderly person can now enjoy an income of at least 75 per cent of the new statutory minimum wage. Subsequent to the implementation of this scheme and with a view to financially assisting as many people as possible, Government have decided not to apply the living alone rule if a person resides with someone who (a) is in receipt of a Handicapped Person's Allowance and has no other source of personal income; (b) is severely ill or permanently incapacitated and has been in receipt of social assistance for over one year preceding the date of application, (c) is unemployed and has been in receipt of social assistance for over two years and in the opinion of the Director has no reasonable prospect of obtaining employment in Gibraltar; (d) is a student studying away from Gibraltar or in full time education.

Last year I announced in my budget speech that a review of our social assistance arrangements would be undertaken during our term of office in line with our policy to enhance and develop our social security arrangements. The areas to be touched upon during this financial year will include an assessment of unemployment benefits, employment injury benefits, including disablement benefits and industrial death benefits and the Handicapped Allowance. It is expected that this review will be completed and considered by Government by the end of the year.

Finally, on the topic of drugs, a five-day multi agency course will be organised in Gibraltar which will be delivered by the UK Kaleidoscope Project. The course is designed to give those persons working with the issues and problems arising from drug dependency, the confidence and skills required to increase their effectiveness in preventing drug misuse. It is directed at professionals with responsibility for young people such as teachers, youth workers, police officers, counsellors, and social workers. To date, the approach to drug awareness education has been mostly on an individual departmental basis, and it is felt there is a lack of uniformity and standard procedures on the delivery of the message. This comprehensive course will help to ensure that drugs education is delivered in a standardised, up to date and professional manner. On the question of enforcement, Government will shortly be considering proposed amendments to the Drugs Misuse Ordinance Regulations which have not been reviewed since 1973. These amendments, which have been proposed within the framework of the Drugs Advisory Council on Misuse of Drugs, will allow for the inclusion of approximately 65 additional drugs and will provide more effective control on the importation, manufacture, supply and possession of Class A, B and C drugs. Government also propose to constitute a Drugs Co-ordinating Taskforce made up of representatives from the Department of Social Affairs, Education, Health, Police, Customs and other relevant bodies. Our ultimate aim is to target drug smuggling and importation with stricter legislation and penalties for traffickers and especially for suppliers to young people.

Mr Speaker, I would not like to conclude without placing on record my most sincere gratitude to all my members of staff. My first year in office has been one long learning curve, and their advice, support and understanding has proved invaluable. I would also like to thank my ministerial colleagues for their encouragement and assistance throughout the year, for making me feel part of a team from the very beginning, and for always being there when I have needed them. And I thank, Mr Speaker and Opposition Members for their kind attention.

HON H A CORBY:

Mr Speaker, I will start my contribution with the principal area of responsibility which is employment.

The ministry forever continues to strive in order to afford the registered unemployed every opportunity and prospect of employment, indeed its top priority.

I should straightaway here wish to pay particular tribute to the employment officers of the Employment Service – that small group of men and women who day in and day out face those registering for employment, checking vacancies, matching against suitable candidates, arranging job interviews, contacting candidates and potential employers, doing everything that needs to be done in order to give practical meaning to the opportunity of a place in the labour market. Still it is not uncommon for them to be criticised, even to the point of having to endure abuse, by some of those unemployed who unfortunately may take some more time to place. This is never the fault of the employment officer. Changes in the labour market and the suitability or otherwise of the individual are in the main the determining factors. All too often though, it is the employment officer who gets the stick for being unable to help someone back into the labour market. It is only right and proper that we spare a deserved thought for these officers and their often most unrewarding task. Turning to the more general scenario of employment and unemployment it can be deduced from current trends in terms of number of registered unemployed, vacancies and terminations being notified and the continuing variation of the economy, that we are very much still in a state of continual change. This of course, affects us all and calls upon a need to be flexible in order to best accommodate the change that adapting requires.

This immediately takes me on to one of the main points that I already had the opportunity to elaborate upon during the course of last year's address. I consider this issue of such vital importance that I must again reiterate this year, and in future

years if need be, my strength of feeling. I am referring to the issue of flexibility – flexibility of an all round nature.

Being concise and to the point, particularly in terms of employment opportunities, I must emphasise the degree of flexibility and adaptability that, in the interest of Gibraltar's labour market, and indeed its economy, ought to prevail in employer/employee expectations.

Much debate and controversy are being focused on the number of jobs being taken up by a foreign, as opposed to locally resident workforce. Historically and traditionally Gibraltar has always maintained a foreign labour contingent – it has been impossible to meet the labour demand from local human resources – and such continues to be the case. Vacancies are constantly, on a daily basis, being notified to the Employment Service. All too often, and increasingly, such notifications are submitted with the corresponding Notice of Terms of Engagement (often referred to as the contract) for those chosen employees and all too often for the employment of a non-resident individual.

Whilst it will be the choice of the employer as to who is selected and employed (except in the case of a work permit being required) I would like to remind employers that the whole idea behind having compulsory notification of vacancies is to enable such job opportunities to be offered to those locally resident registered unemployed persons that may match the given job requirements. Moreover, current legislation provides for two weeks to be allowed by employers from date of notification of vacancy to date of employment commencement, precisely to allow for identification and submission of suitable candidates. The Employment Service and its employment officers cannot deliver any other way, and the locally resident registered unemployed cannot be assisted in the designated manner that we the Government consider it our obligation to do. So where does the all important flexibility come into all this?

Well, Mr Speaker, I hope that the message is clear. Much as unemployment figures continue to be on the low trend, it is

evident that whilst not all, certainly, some of the jobs being taken up by non-residents could very well be taken up by locally resident unemployed persons. To my mind, and generally speaking, it requires a concerted effort by both employers and locally resident unemployed to meet each others expectations. Employers, again generally speaking, to be more flexible in their efforts to recruit from within and those unemployed within to be more flexible in their job aspirations. Hardly anything more need I say on this subject.

In the meantime, the Employment Service will endeavour to do its utmost to ensure that notified job vacancies constitute genuine job opportunities for the locally resident registered unemployed and not a "fait accompli" – most certainly not within the two week required period.

In our efforts to assist those unemployed seek suitable employment, I should also like to refer to the work of the Employment Service Job Club launched some two years ago. Its fundamental objectives can best be described as the provision of facilities and service in order to assist particularly the long term unemployed and other disadvantaged groups.

The Job Club targets their re-integration into the world of work. To this effect two employment counsellors are employed and generous related resources have been made available. The facilities are a source of daily activity and have to date assisted over 60 per cent of persons who have made use of the Job Club find subsequent employment, join government training schemes or go onto Further Education. Of these 44 per cent are currently in employment, training or education. I believe it can be safely said that support, challenge and motivation, as provided through the Job Club, pays dividends.

The Job Centre and Job Club services are further complimented by a range of available wage-subsidy measures. Whilst spending in this respect will continue being prudent and contained, possible new wage subsidy measures will be considered especially in the light of the new EU funding programme. The Government's policy

in relation to wage subsidies will continue as stated, the aim being to maintain spending levels in line with real demand for long term sustainable employment.

Work on the implementation of the Jobseekers Agreement continues. One immediate effect has naturally been the bringing Social Security and Employment even closer together. Whilst increased assistance is being afforded to the unemployed, especially the longer term unemployed, factors relating to receipt of social benefits are also being closely monitored and longer term claimants positively challenged. The aim of this new regime is basically two fold.

- (1) to provide a more structured framework that will ensure a better assisted job seeking service for the unemployed, and
- (2) to better monitor and safeguard the conditions for continued payment of social benefits to claimants.

Turning now to matters relating to employment legislation, as very recently announced, the introduction of the necessary legislation is now imminent in terms of the well known new Statutory Minimum Wage rate of £3.75 as well as that of a Redundancy Payment Order to cover all sectors similar to that which already exists in such sectors as the Retail and Wholesale Trade. Further, the equalisation of pensions, gratuities and retirement age in the Public Sector has now been formally addressed whilst Government still consider finer details. Occupational pensions for Private Sector employees remains high on the agenda of Government's commitments and is actively being pursued.

Under consideration, with a view to transposing the corresponding EU directive on the matter, is draft legislation for the introduction of parental leave and time-off for dependants. In essence, and subject to meeting prescribed criteria, all employee-parents will be entitled to 13 weeks unpaid leave during the period to their child's fifth birthday with a maximum allowed four weeks per year. Additionally, employees will be entitled to take time off work,

again unpaid, to deal with certain unexpected or sudden emergencies involving a dependent.

Still on the subject of legislation, I should like to highlight the work of the Labour Inspectorate and the deterrent effect of the legislation – the Employment Regulation (Offences) Ordinance. Though difficult, if not impossible, to measure, indications are that quite apart from the punitive action that has been taken against offending employers by way of fixed penalty fines, the intended deterrent effect may well be proving itself a powerful anti-illegal labour tool. Additionally, the Inspectorate's joint approach to their work is detecting and ensuring registration with Social Security and Income Tax, thereby making a further positive contribution towards required compliance in respect of these two Government revenue collecting departments.

Last, but by no means least, I must commend the valuable contribution made by the social partners through their representation in the Labour Advisory Board, and through which Government are able to maintain a pulse check on all those issues which can affect the labour market. I therefore wish to manifest my appreciation to all members of this Board, for their contribution, for their spirit of co-operation and concerted efforts.

Turning now to other responsibilities under my Ministry, I would like to briefly report firstly on Bruce's Farm Rehabilitation Centre. As the House is aware Bruce's Farm has now been operational for 18 months. During this time 94 patients have benefited from the residential programme offered. Another 23 persons have been seen and assessed for admission but have still not decided to commence their programme. Needless to say this service has also been extended to the families of all patients, where help and guidance has been instrumental for the well being of the family as a whole.

The work at Bruce's Farm has escalated day by day, at present the centre finds that most of the people who leave Bruce's Farm having completed the programme and live in abstinence of drugs need to keep up the contact with the Centre in order to maintain

their new way of life. So counsellors are constantly monitoring and working with them as well as catering for in-patients.

At the moment we are offering an Aftercare Service every Wednesday at Bruce's Farm but we find that is not enough. The need of having a permanent aftercare facility in the town area is now a must. Not everybody has the means of transport to get up to Bruce's Farm in a moment of need, be it family or ex-patient therefore the phone is their only means of communication which is never the same as the human contact and support that one to one sessions offer. Aftercare and meetings are the only safe network for on-going abstinence, if this is not provided the risks of relapsing become more of a possibility. The growing need for an Aftercare Centre and the importance that this facility plays in the rehabilitation programme cannot be stressed enough.

Government, well aware of their commitment in the fight against drugs, have been identifying premises in the town area for this purpose. It is with great pleasure that I can today confirm that suitable and well located premises have now been secured and from which the Aftercare Centre will soon be able to provide its important services.

The necessity of the family of a patient to meet, talk, discuss and plan the way ahead is a reality, which also requires constant attention. A safe and protective environment is very much needed. Again, this Aftercare Centre will also be used for such sessions and will take the tension from having to go up to Bruce's Farm and giving away their own confidentiality.

The new facility in the town area will also offer therapy sessions so that the family are better prepared to deal with the problem when it has entered their family circle.

Also numerous calls are received from families, employers and friends for information seeking help for support with chemically dependent problems. Every call is heard, supported and guidance is given when necessary. This kind of assistance was not envisaged when Bruce's Farm was opened but without any

publicity the Centre has also become a help-line in Gibraltar. This also adds a tremendous amount of work for the staff. The Aftercare Centre, where there will be a counsellor present, will deal with this added workload.

Another factor which is being encountered is the fact that people completing their programme find it extremely difficult to find a job due to their past record. My contention is that if a person completes a programme and lives a life free from drugs it is essential that this person be given a second chance to reintegrate into society. The Government will be looking at ways and means in which it might help in order to assist them back into employment.

In the 18 months that the Centre has been in existence it has become aware of the increasing drugs and alcohol problems that exist in Gibraltar as is common in every European country. There is no pattern of age, class or creed, it affects the whole community. We all need to reflect on what dangers chemical dependency can bring not only to ourselves but also to our loved ones. My message to those still held in the jaws of drug addiction is seek help now before it is too late.

I would now like to turn to my other Ministerial responsibilities as relating to Consumer Affairs. As we all know, this is an area which for long has been in great need of attention.

Whilst a Consumer Advisory Service has been operating since late 1995, its efforts to provide an efficient and reliable service have been hindered by the evident lack of appropriate legislation. In order for this service to operate with any degree of effectiveness it is imperative that legislation in keeping with today's consumer society is in place. To this effect there is already EU legislation that requires transposition and adaptation to our own needs. This process has commenced and there is on-going consultation with the relevant parties, so that hopefully some of the legislation being discussed may be in place. For the time being, the Consumer Advisory Service continues its task, within its limited capabilities of responding and taking the action



that it can in respect of the multitude of complaints and claims it receives in its day to day running. Government will in the meantime endeavour to address all the relevant issues with a view to the setting up of an effective and reliable Consumer Advisory Service.

Finally, Mr Speaker, and now referring to my ministerial responsibilities in general, I should once again wish to place on record my gratitude for the valuable assistance and advice afforded by management and staff of the various sections of my Ministry. I truly value their assistance which better equip me to discharge my responsibilities as Minister for Employment and Consumer Affairs.

HON J L BALDACHINO:

Mr Speaker, as spokesperson for Employment and Social Services, I will be dealing with these two departments in my contribution.

I will start with Social Services. If we look at page 54 of the Draft Estimates under Head 5B – Social Services, Sub-Head 6 – Milbury Care Services Ltd, contracted services, the proposed estimate for this financial year is £1,670,000, which is £456,000 more than the forecast outturn for the year 2000/2001, which was £1,214,000. I will like to give notice to the Government that I intend to ask for a breakdown of that provision and why such a substantial increase is being given to Milbury.

When the Government announced the contract that had been given to Milbury, they stated that the money paid was ring-fenced and it would not cost them more. But what we are finding is that financial year after financial year that amount paid to Milbury increases and handsomely, may I add.

With your permission, Mr Speaker, I will now state how the amount of money paid to Milbury has been increasing from year to year, the source being the Government Estimates of Expenditure. In the year 1998/1999, the estimate was £897,000

but the forecast outturn for that year was £950,000, which was £53,000 more than estimated. In 1999/2000 the estimate was for £950,000 but the actual was £1,014,826, which was £64,826 more than estimated. In 2000/2001 the estimate was for £1,125,000, yet again the forecast outturn has been £1,214,000, £89,000 more than what was estimated. The Government are now estimating £1,670,000 but going by what has been happening through the years that figure could be substantially higher. It already represents almost 100 per cent increase from the year 1998/1999.

Mr Speaker, taking into consideration what I have just said and the many complaints that the Opposition have received by residents of the Dr Giraldi Home, users and relatives, about the service Milbury are providing, we would like to know whether the Government are satisfied with the service provided by Milbury considering the amount of money being paid out by taxpayers.

I have been told by residents and relatives that if it was not for the efforts of the local staff, things would be much worse at Dr Giraldi's Home. As a matter of fact the residents say that their views or proposals are never taken into account by Milbury when changes are made at the Home. This should not come as a surprise to Ministers as even their instructions have not been followed. This was when the Government provided the two flats at Edinburgh House for respite, Milbury management decided that they were using them to move the residents of the Home, this they did with total disregard to the instructions of the Government and the Minister for Social Affairs, where she had to intervene and obviously the residents had to be moved back. Taking that into account, seeing that Milbury is heavily handed even to the Government, it is no wonder that they could be more heavily handed to the residents and relatives of those who use the Home.

In last year's Budget, the Minister for Social Affairs said and I quote, "As promised in our manifesto, and as part of our commitment to improve the quality of life of senior citizens, a free mini-bus service to and from the town centre to Calpe will soon be in operation to assist elderly people who live in the Upper Town

area". In answer to my question, the Government stated that the bus service would be in place in the autumn. This was last year. Autumn came and no bus service. In answer to a question posed by my hon Colleague Juan Carlos Perez on the same subject, the Government stated that it would be in service by Easter. Easter has long gone and still there is no mini-bus service for our senior citizens. One year has now passed since the hon Lady made the announcement and I ask what does the word 'soon' mean to her as she has not mentioned in her contribution anything about this service. At that time, if I remember correctly, I said that maybe the route service that was being used could obviously be used as an interim measure seeing that the hon Lady in her contribution said that this was necessary for the quality of life of our elderly citizens.

Mr Speaker, moving to employment. In the meeting of October 1999, when Government brought the Working Time Bill 1999, and this was in November 1999, my argument, during the debate was that what we were passing was inferior than what we had in our law, which protects young people, as persons aged 17 were going to be treated as an adult under the new Bill, which was not the case in the other Ordinance. A young person is considered to be between the age of 15 and 18. I do not want to go into our arguments as they were put at the time, but I want to draw the attention that at the time the mover of the Bill, the then Minister for Employment, stated that the point I was making would be covered in a Bill that was to come to the House on the EU directive on the Protection of Young Workers. Two years have now elapsed and nothing has yet been done in this area and our 17 year olds have been left without protection. If the Government knew that they were going to take such a long time to bring the Protection of Young Workers Bill to the House, they should have kept the protection for the 17 year olds as suggested by me at the time and then in the introduction of the other Bill, it could have been repealed. At least they would not have been in limbo as they are now.

Mr Speaker, in November 1998, the Government introduced a resolution to discontinue the compilation of employment statistics

for two months of the year, April and October, which had been the previous practice when we were in Government. They decided that the information would be obtained only for October every year, beginning in 1998. Also the compilation of the statistics would be based on questionnaires sent to employers, rather than on PAYE returns as had been done when we were in Government. This policy decision was defended by the then Employment Minister, the Hon Mr Netto, on the grounds that it would provide the information on the labour market more quickly than in the past. We were not convinced that this would be the case and did not support the Government's decision.

We have been proved right because when we were in Government the average time taken was 15 months from the last date of the survey to the calculation of the results. They used to complain when they were in Opposition that the compilation of the statistics took too long. Yet under the new system introduced by the Government, only one Employment Survey has been published, and that is the October 1998, 18 months later. What it shows is that the private sector has suffered a loss of 500 jobs from 1996 to 1998. Worse still is that the October 1999 Employment Survey information is now nearly 20 months old to this day, and as I say this, as yet there is no indication by Government when the results will be made known. Therefore, there is no reliable statistics two and a half years later to show what has happened since then and still no indication when the next set of figures will be produced.

Mr Speaker, before I leave Employment. Obviously one of the reasons why we could be getting higher unemployment of Gibraltarians, is that when one looks at the vacancies filled in the 1<sup>st</sup> quarter of this month, one will see, for example, I will quote the three months. For the months of January, out of the 172 Gibraltarians employed, only 35 came from the unemployment list. Yet when we go to the other British, out of 121 persons employed, 52 were new entrants to the labour market. If we look at the Spaniards column, out of 92 Spanish persons employed, 47 were new entrants. In February, out of 157 employed, only 40 Gibraltarians were new entrants. Out of 93 other British

employed, 47 were new entrants to the labour market, and on the Spanish column, out of 87 workers being employed, 40 were new entrants to the labour market. If we look at March, it is more or less the same. Out of 144 Gibraltarians employed, 52 were unemployed, out of 92 other British, 42 were new entrants and out of 126 Spaniards employed, 57 were new entrants. Maybe to find the source where there is an increase in employment on any particular month that should also be checked before the Minister tries to impose the job seekers agreement, because we do not think that actually there are so many people who are on social benefits, who are just there registering for the simple reason that they are not seeking employment, they are only there to collect the social benefit payments. The Leader of the Opposition in his contribution made it quite clear that this side of the House would be totally against any move to take any statutory requirements that any person has today. In other words, I am talking about of their unemployment benefit, because that has come out of their contributions. There was an indication of that when the Chief Minister gave his speech.

I now move to unemployment. The Minister described unemployment in his contribution in last year's Budget as historically low. As a matter of fact, linking it to being one of the economic indicators. Unemployment figures for the first quarter of this year, that is for January, February and March 2001, is higher than for the same period on average and for individual months of last year. For January 2000, unemployment for Gibraltarians was at 305 compared to 370 of this year; February 2000, was 300 compared to 355; and March 2000, 307 compared to 349. On average terms for the first quarter of last year, unemployment was at 304, compared to the first quarter this year, which stands at 358. Therefore, taking the Ministers logic of what is an economic indicator in this area, Gibraltar must be worse off than last year and even worse off than when we left Government, when the unemployment level was at 331.

Unfortunately, the persons who are worse off are Gibraltarians who are unemployed. We do not have the figures, and I am quoting these figures because we are now in June and we still do

not have the figures for the second quarter of this month and we have to wait to see what news of unemployment that brings us. What is clear is that what the Government cannot do is that when unemployment is down they claim that it is due to how well the economy is performing in this area, and when unemployment rises, this is due to abuse by the persons who are registering for unemployment. They cannot unfortunately have it both ways.

HON J J NETTO:

Mr Speaker, as Minister for Housing and Buildings and Works, I would like to offer a bird's eye view of the various topics being dealt with within my area of responsibility.

The House will recall that in last year's budget speech I alluded to various reviews being carried out within Housing and Buildings and Works. However, I will begin by highlighting matters of finances in the first order, followed by the projects that are in hand, and lastly a comment on the review which has been going on.

In matters of recurrent expenditure, both departments have kept expenditure within the approved estimates in this House. Relating to Buildings and Works, this is not new, indeed this has been the fourth year running that no supplementary funds have been requested to finance overspending in the Buildings and Works Head, other than virement from the Pay Settlement vote in order to meet the increases of new salaries and corresponding arrears. This is also the case in Housing.

In terms of capital expenditure through the Improvement and Development Fund, hon Members will note that the estimate in Head 101-1; has been substantially overspent from £1.44 million to £2.3 million. The simple reason for this is that Government feel that extra resources are needed in order to maintain the pace of major refurbishment to the Government housing stock, due to the historical under-investment made over the years. It is also notable that the estimate for this year in subhead 1, is double to that of the last financial year. Obviously, as Housing Minister, I

could do with more money in order to correct the consequences of the under-investment alluded to before with the consequential detrimental effect it has had on the Government Housing stock historically, but the fact of life means that this community's wealth has to be distributed amongst other equally important projects. With regard to subhead 2, Edinburgh House Refurbishment, hon Members will notice that this year's estimate is £20,000 as opposed to £200,000 in the last financial year. This provision is a residue of any medical conversion of any given flat that may come our way.

Mr Speaker, in relation to major refurbishment projects, we have now completed the Glacis Estate beautification and lifts installation scheme. It is the case that the works have enhanced the aesthetics of the estate and met with the approval of its tenants. Anderson House is the last block in the Calpe Road area and it is anticipated to be finished in July or August of this year. The House will recall that MacFarlane House and Willis's House have already been refurbished. Hon Members will have observed that the Treasury Tender Board has already awarded the contracts for the external refurbishment of Macmillan House, the construction of bin stores and the beautification of Laguna Estate, and the replacement of balconies and associated works at Heathfield House. These are expected to commence soon, and with the Laguna Estate project going on for two financial years. Additionally, and separately, there is provision for the installation of lifts as well. Another much needed and costly project will be the refurbishment of Tankerville House and the Prison Quarters block next to it. Included in this financial year we will also undertake Coelho House, and lastly to round up on this topic, we would like towards the end of this financial year to commence with the Varyl Begg project. This no doubt will be very good news for the tenants living there who have seen their estate deteriorate over the decades.

With regard to the GSD manifesto commitments for new housing, Government are considering some preliminary designs and locations for the three different types of housing units, that is, Home Ownership, Senior Citizens and for renting. We will be

expecting to make an announcement of the different schemes later on in the financial year.

Hon Members will recall that in my last year's speech, I did mention the need for updating both the Housing (Special Powers) Ordinance 1972 and the Housing Allocation Rules of 1994. In this regard I have almost completed a departmental review, which later in the year I will send for Government consideration and approval. Members will agree that there is much of a need to overhaul the current Ordinance and Rules, to take account of changed circumstances since the last time this was reviewed.

Mr Speaker, two weeks ago Government released the Consultant's Report on the review of the Buildings and Works Department. The report's findings have not caused much of a surprise to either the Government or to this community's general impression of the department, or indeed tenants' natural expectations on what should be Buildings and Works level of output in order to satisfy its customers. However, I have already said that the thrust behind the report is not for the purpose of apportioning blame or finger pointing. What is important here is to grasp the opportunity to restructure Buildings and Works' maintenance and refurbishment functions, within the parameters set out. So what the Government are hoping for is for the new Buildings and Works to be a modern, caring, productive and value-for-money operation that delivers to Government tenants the quality of service to which they are entitled, and on the other hand, it should provide good secure and properly paid employment to its staff in the public sector. To achieve this, all the parties concerned will need to look at the report positively, so that in the consultation and negotiation process ahead we may provide, hopefully, a win-win situation for tenants, taxpayers, staff and Government alike.

Finally, once again I would like to place on record my appreciation for all those in my Ministry who have given more than their fair share of work in moving ahead in the Government drive to improve services to its customers.

HON DR R G VALARINO:

Mr Speaker, as Opposition Member I shadow Housing and Housing Maintenance including Home Ownership, the Environment, as well as urban renewal and beautification and heritage.

On Housing and Housing Maintenance, much has been revealed over the past year through:

- (1) Answers to Questions.
- (2) The First Annual Report of the Ombudsman covering the period up to December 2000, and
- (3) The recent Report of the Buildings and Works Department commissioned by Government.

It is obvious that although the Opposition urge the Government to alleviate many housing problems, little or no notice is taken of our suggestions. These suggestions arise as a result of the many complaints we receive, largely from Government tenants who have tried to present their case to the Housing Department and/or the Minister but have received little or no help in their predicament. The stock answer is that "No recommendation has been received from the relevant Housing Committee and the department and/or the Minister can do nothing in the circumstances". This Government simply do not care about individual housing problems, of this I have many instances.

The Housing Department is one of the Government departments that has most contact with the ordinary person yet it is not "user friendly". Nor does it seem that there is going to be any change in the future. In fact now that no new Government developments are to be found in the short term, the problem will get worse instead of better.

There is an urgent need to appoint a new Housing Manager, one that will set the tone for others to follow. The post has been vacant since January 2001 and though I know that care must be

given to choose the appropriate person, yet it has to be done, even if the incumbent is appointed on a two-yearly basis. There are eleven persons in housing administration, the only new post created is that of a Personal Secretary. The two jewels in the Housing Department's much vaunted developments (Bishop Canilla House and Edinburgh House) have proved to be something of a disappointment. In February of 2000 the GSD said "Bishop Canilla – 86 flats especially designed for the elderly have now been completed and will shortly be allocated". Later that year I asked why there had been a delay in the allocation of Bishop Canilla House – the Minister admitted that one of the reasons was that during the Christmas period, the heavy rainfall led to water penetration and after Christmas the plumbing was tested which resulted in leaking pipes. These two factors left a number of flats with damp problems. However he insisted that the situation was close to a satisfactory conclusion. This was confirmed by the Chief Minister in September 2000. In February 2001, I again had to ask why there was water penetration once more at Bishop Canilla House and how many flats were affected. The answer was that there had been water penetration again and that the main contractor was undertaking remedial works. Approximately 30 flats had been affected. At the last meeting of the House, not so long ago, the Minister had to confirm that remedial works were still on-going. I sincerely hope that these works have now been completed and that this particular problem has been solved once and for all – that this winter we are not going to have a repetition of previous events involving water penetration.

The other very relevant matter affecting Bishop Canilla House was the provision of fire extinguishers. The residents here are elderly people and fire prevention must be paramount, yet, apparently, no one in Government has given it a thought. Presumably, as the building was not tall enough, it was felt that there was no need to provide fire extinguishers. There have been recent fires at Glacis Estate and Sir William Jackson Grove and I have now learnt that fire extinguishers will be provided at Bishop Canilla House. I do hope they do so as a matter of urgency.

Government stated in public that the allocation of the 208 flats in Edinburgh House were the first houses to be allocated for renting in 14 years. They should know that the GSLP during its term of office also built flats to rent. To refresh their memory, I will just mention a few areas – in Laguna Estate, at Glacis and in St Jago's. But even if this had not been the case, how do they think that the houses that are being allocated up to now for renting, excluding Edinburgh House, could have been possible?

Thanks to the GSLP's initiative of our 50-50 ownership scheme, this Government found themselves with the release of many Government flats which could then be allocated for rental purposes and as far as Edinburgh House is concerned, negotiations for the transfer was started by the GSLP, when we were successful in getting the MOD to agree to its free transfer.

Yet at Edinburgh House there is a level of rents which are not in keeping with rentals in other buildings of a similar age in Gibraltar. Government try to argue the point that it is because the average flat area is higher than in other post-war housing developments. A room is still a room but only a room and to penalise those tenants because they live in slightly larger rooms is hardly convincing, especially when they obtained these flats at no cost. Many tenants find great difficulty in paying these high rents and I again urge Government to reconsider and help these tenants. I notice that only 19 tenants out of the 208 are on rent relief. There are also problems with parking facilities, fire extinguishers et cetera at Edinburgh House. Fire extinguishers were promised to prospective tenants at every landing. None have been forthcoming so far.

How about the construction of further Government flats on a 50-50 basis and/or rentals? In late March of this year, the Minister stated at a meeting held in his office, that this item was still in its early stages, that is, that is, identifying possible sites. In the meantime, young married couples unable to buy or rent a flat – now at exorbitant prices have to look to the hinterland for housing. How long will Government take to make their minds up, identify a site and build flats for young Gibraltar couples?

Five lifts have been installed at Glacis Estate at a cost of approximately £250,000. However, soon after, Government stated in a press release and in answer to a question in the House that some of these lifts were not operational on account of vandalism and that there had been water penetration in two of the lifts installed at Glacis Estate. Another tale of woe!

The Minister said at the last House of Assembly, when asked about external refurbishment that Coelho House is specifically mentioned in their last election manifesto. At Question Time in February 2001, he stated that the delays to repairs at Coelho House had been caused by the need to prepare detailed designs, but that these designs had been completed and that the Government were in a position to put these works out to tender. These are large flats in a quiet part of Gibraltar and many of these flats are empty. May I again stress the importance of putting these works out to tender, given the constrictions present in the construction industry as the repair of these flats would not only stop the water penetration that tenants are having but would allow Government to rehouse a large number of new tenants. Does the Minister really mean what he says, because he has still not delivered.

In our manifesto we promised a new deal in housing. A commitment to construct 500 new housing units, most of these for sale on a 50 – 50 home ownership scheme without means testing. Special facilities would have been provided for those who wanted to buy and could not obtain a commercial mortgage in the form of a 100 per cent interest free mortgage. A 20 per cent discount for rates paid on time for residential premises. A lowering of rents at Edinburgh House in tune with rentals in other buildings of a similar age in Gibraltar. The continuation of the £10,000 tax deduction on the purchase of Government property but with an increase of £1,000 per year for four years. This would have applied to new purchasers as well as to those homeowners who had already exhausted or were still claiming the benefit of the original relief of £10,000. I welcome the Chief Minister's statement that the original relief will now be £11,500. I imagine that this will start as from the 1<sup>st</sup> July 2001. Although he is following our ideas

on the increase of the original relief, we feel that the figure he mentioned should apply to all homeowners, which really means an added £1,500 to those who have already exhausted their original relief. As far as present circumstances are concerned the so called increase will be of benefit to those who can afford expensive houses especially as most Gibraltarians are unable to buy houses at their present value.

I certainly hope that the recent report commissioned by Government on the Buildings and Works Department does not slow this process down. In the brief summary of the Report it states that the quality of the workmanship is often good, however, the current performance is unsatisfactory. The central issue, according to the Report, is in the nature of the Department's role and the way it is linked to Government. The recommendation is that its function should be transferred into a non-departmental organisation, headed by a Chief Executive. However, it also highlights the poor role of management, the lack of clarity of job requirements and the lack of experience of some managers. As the Chief Minister said "The purpose of this Report is not to convert it into a political football but that after consultation with the Unions, Government are to present to the House their intentions for the reformation which would then be fully debated in this House".

The first annual Report of the Ombudsman states that out of 761 complaints 177 were against the Housing Agency and I quote from the Report, "It is obvious from the nature of the complaints brought to the attention of the Ombudsman that many of these could have been avoided had the Agency been more diligent in communicating with members of the general public. In many instances the Ombudsman has had to intervene to ensure that the complainants obtained replies to letters which had been addressed to the Agency six and even eight months before".

This can be found in page 25 of the Report. Pages 131 to 183 contain detailed reports of these complaints and just to mention one example, a complainant who first wrote to the Housing Agency on the 16<sup>th</sup> September 1998, did not have the problem

solved until the 3<sup>rd</sup> February 2000 and that problem was one of the easier ones.

These delays are unforgivable and I urge the Housing Department and the Minister, to be, as I have stated before, more "user friendly" and improve communications with those members of the public who contact either the Housing Agency or the Minister himself. After all, now a Personal Secretary may be of some help.

I congratulate and fully agree with Action for Housing on calling on Government to provide a proper system of temporary accommodation for persons rendered homeless, through incidents of fire or flooding. The Government should not make any distinction whatsoever between Government tenants and others but must take on the responsibility of giving whatever kind of immediate shelter it can to those tenants who are rendered temporarily homeless.

The Minister has the habit of blaming most of the department's fault on the previous administration. May I remind him that it is now five years since the present Government took Office and that the Minister should stand on his own two feet and be counted.

As far as the Heritage and the Environment of Gibraltar is concerned the Ministers with responsibility for them will find that Opposition Members will help them in their endeavours to protect our heritage that makes us what we are and this must be uppermost in our minds as Gibraltarians.

Lastly on urban renewal and beautification, I am glad that the tender has been awarded for this project at Laguna Estate. I sincerely hope that it will be as successful as the Main Street one. There is a need for continual urban renewal and beautification and I am glad to hear that next on the Agenda must be Varyl Begg Estate, which by the time a start is made will sorely need it. There is no point in beautifying Gibraltar for those who come to eat their pack lunches if we, who live in this precious part of Europe, notice continual dilapidation in our surroundings.

The House recessed at 4.55 pm

The House resumed at 5.25 pm.

HON DR B A LINARES:

Mr Speaker, as I present to this House the budgetary provision for Education, Training, Culture and Health for the following financial year I will also outline the progress and developments in these areas during the last financial year.

Before entering into details, I wish to make a point of a general nature. The point I wish to make is that I am confident that the great majority of those workers employed in these services, teachers, instructors, civil servants, administrators, managers, professionals, technicians, doctors, nurses, industrials et cetera – they are our own people, who depend for themselves and their families on these very services that they are called to provide – I am confident that they all share my commitment to strive to provide the most caring service to our people at all times and that they will support me in eradicating any deliberate failure on the part of the system or on the part of individuals who can let us down in our collective efforts to look after our community to the best of our ability and resources. They all have my trust and appreciation and I am sure that of all Members of this House.

Mr Speaker, the creation of a new hospital in Gibraltar has been long overdue. St Bernard's Hospital dating back to 1830 had given of its best many years ago and many of the problems and difficulties we face today are due to the physical and logistical limitations of the Hospital – indeed, it speaks highly of our staff that in spite of these limitations and constraints the wards and other hospital facilities are maintained in such excellent condition, particularly as regards cleanliness and hygiene.

We look forward to the New Hospital covering an area of 25,000 square metres (as opposed to 9,300 in St Bernard's), wards with 200 beds (as opposed to 160) and three operating theatres (as opposed to one). But we are determined that this exciting project

should also serve as a sort of catalyst, so to speak, in generating heightened expectations, renewed attitudes and more ambitious sights striving for standards of excellence in our health services. The New Hospital is intended by this Government to be a state of the art facility which will be the pride of our community. For this purpose we shall soon be in a position to announce a detailed charter in the form of an overall developmental plan setting out broad aims and specific objectives, marking short-term, medium-term and long-term targets in the development and improvement of medical and health services in Gibraltar as a form of protocol for the operation and functioning of the New Hospital. In any case, much of this general developmental plan, in terms of the short-term and medium-term changes and reforms will come into effect well before we move into the New Hospital. We often hear cries "something will have to be done about our health services." However justified or unjustified these appeals may be, those making them in good faith will not be disappointed. We are working on all this in conjunction with the multidisciplinary design team led by Devereux Ltd which has already been appointed and will be ready by the end of this year to provide a detailed brief to the appointed management contractors. Eleven firms have been intensely interviewed and we are now in a position to short list from these firms and invite tenders; so that by December this year we will appoint the chosen management contractors to start work in January 2002. The project's programme is well on schedule and we are confident that by the summer of 2003 the works will be completed.

Mr Speaker, much is already being done at an infra-structural level (training, strategic logistical and manpower planning, equipment and resources analysis, et cetera) to prepare the passage towards the new hospital. I will now give some indication of what has been progressed throughout the past financial year and is planned to be developed throughout the coming financial year. There is no doubt in my mind that in order to achieve the high standards of medical and health care that we are aiming at and that the community rightly calls for, we must ensure a work-force (doctors, nurses, allied medical professionals, auxiliaries et cetera) equipped with the highest



professional skills well grounded in the most advanced clinical techniques prevalent in medical science today.

The policy of this Government are and have been since we came into office to invest unreservedly on the on-going professional development and proper validated training of all our practitioners at all levels from Consultants, Senior House Officers, General Practitioners to the different nursing grades and all other medical professions. This is already happening through the School of Health Studies supported and validated by Sheffield University. We are now beginning to reap the results of our strategic investment and recovering from the fallow years of the previous administration, which inexplicably closed down the nursing school and relied on amateurish and half-cooked training and recruitment schemes failing to attract high ability trainees into the delicate and demanding tasks of nursing care. I am pleased to report to the House that the progress and development of the School of Health Studies since its inception in September 1999 cannot but be described as impressive. It would be cumbersome to list here the great variety of courses which have been arranged throughout the past year for nurses and other medical professionals, from manual handling courses to multi-disciplinary courses such as the Advanced Life Safety Support to the Lymphodaema and the Diabetes Awareness Course conducted by a Leicester Royal Infirmary team.

On an on-going basis in September of this year the first cohort of 12 students who registered in September 2000 for the three year diploma course validated by Sheffield University, nine for the GHA and three for the Elderly Care Agency, will enter the second year of study and a further intake of eight pupil nurses will commence the full-time course for Enrolled Nurses requiring high entry qualifications. A second intake for a three-year Diploma Course will be admitted in September 2002. And I am pleased to announce that eight third year students have recently sat their final examinations and qualified as Registered General Nurses (RGNs). This is the first ever cohort of local students to be trained locally up to Registered General Nurse qualification and their employment with the authority not only effectively increases our

staff nurse complement by five this coming year but also reduces our need to fill up vacancies in post by recruiting officers from abroad – an increasingly expensive proposition, let me say.

In this context I wish to put on record my appreciation of the work carried out by one of our tutors in the School of Health Studies, Mrs Maricarmen Durante who was there from the very start of the School until her recent retirement. I am sure the House will join me in wishing her many years of happy retirement. To fill this tutor post the School of Nursing and Midwifery of Sheffield University have seconded a highly qualified nursing tutor, Miss Tracy Wilson, until such time as we can localise this high level academic post through adequate training and qualification which may be validated by Sheffield.

Particularly important to establish a higher education culture filtering into clinical areas is the English National Board course on teaching and assessing which has been offered for the first time locally under the auspices of Sheffield University. This course leading to diploma level has already been completed successfully by five senior nurses who are now qualified to teach and assess students in ward practice and nine other RGNs will be completing shortly.

To resource these training facilities there has been a spectacular development of the library facilities in the school having invested £70,000 in book stock of a medical and nursing nature and a recurrent expenditure of £15,000 annually in relevant journals to support all levels of our medical profession. Together with this we have provided ready access to the students to internet facilities, and, of course, the availability of the excellent computer network for general use in the Bleak House Training Institute where the School of Health Studies is housed.

At a higher education and degree level the GHA is sponsoring students in UK specialising in Operating Theatre Nursing, Medical Nursing, Surgical Nursing, BSc in Community Health Care (District Nursing) and Sick Children's Nursing.

Mr Speaker, the GHA has set as an essential objective the professional development of all grades within nursing and we are awaiting guidelines from Sheffield University to offer suitable courses for experienced enrolled nurses who may aspire to qualify as registered nurses and also NVQ training schemes for Nursing Assistants.

The GHA has also given a commitment to fund all practitioners in professions allied to medicine, for example, Occupational Therapists, Physiotherapists et cetera to attend developmental conferences and seminars in UK at least once every three years, and indeed similar skills–updating programmes for technical support staff. This we see as a very necessary step in relation to the expanded and more sophisticated clinical requirements of the new hospital.

Mr Speaker, we see the enhanced competence and professional development of consultants and doctors in our service as a crucial element in achieving the standards of excellence that, as I have pledged earlier, we intend to achieve in our health services in Gibraltar. For this purpose the Medical Director, the Primary Care Co-ordinator together with the Principal of the School of Health Studies will be assessing the recommendations of the Royal Colleges in UK concerning appraisal, performance and management and re-accreditation of doctors in order to determine how best to meet these exigencies established by the professional bodies in UK and implement a strategic plan to bring about locally the changes necessary to ensure acceptable levels of competence and proper management of performance. For the first time the GHA is funding study leave for our Senior House Officers (SHOs) to attend courses and examinations in UK as well as Consultants and General Practitioners. All these are important elements in the overall developmental plan on which we are currently working, which I explained, marked short-term, medium-term and long-term objectives as one of the basic policies of the Government in setting our sights for the high level expectations and clinical standards to match the creation of the New Hospital.

Good medical practice today has to be supported by increasingly sophisticated technology and specialised equipment. The Government have spent over £500,000 this past year in new equipment and we are budgeting this year £680,000. It has to be noted, moreover, that the costing exercise carried out by the design team quantity surveyors envisages within the set budget for the new hospital a considerable sum for medical and support equipment, which is not prudent to announce at this stage of the procurement process to match our decision to create a state of the art general hospital, which may also well attract, on a commercial basis, of course, clients from abroad.

Perhaps among the major items of equipment acquired during the past year I should single out because of its obvious beneficial effect on our patients' care, the ophthalmology equipment for the newly appointed Optometrist and Orthoptist; sophisticated endoscopy equipment; portable incubators for the transfer of babies; portable ventilators; and orthopaedic drills and similar equipment which should facilitate the reduction of waiting lists in the Orthopaedic department, together with other measures that I will announce in a moment.

Indeed, Mr Speaker, I am pleased to announce that within the next few months we will be able to reduce significantly the waiting lists for surgery in Orthopaedics, Obstetrics and Gynaecology and Ophthalmology. We have now engaged a second Orthopaedic surgeon on a sessional basis and an additional full-time Obstetrician and made arrangements for the use of the operating theatre in the Royal Naval Hospital and our own theatre during week-ends in order to reduce drastically the workload of our surgeons in these areas which are in great demand. Similarly, we have engaged an Orthoptist and we are about to contract an Optometrist within the Ophthalmology Department and this will release the consultant Ophthalmologist from primary care intervention and be able to concentrate on more specialised and acute surgery, thereby significantly reducing his waiting lists. I can state that over this year our staffing resources at all levels have been increased as never before. We have recruited and

contracted a Consultant Psychiatrist, Consultant Geriatrician and an additional Obstetrician, as I have said before. We have also contracted an additional Senior House Officer in Casualty bringing the complement to 11. We have engaged four ward clerks who have relieved the nursing staff from regular clerical duties; a ward pharmacist who again will be of great assistance to the nursing staff in the wards and also facilitate pharmaceutical dispensing to in-patients; additional clerical staff in the Hospital Administration department, in order to facilitate the operation of the Complaints Procedure; in the Sponsored Patients Section, in Personnel Department and in the School of Health Studies in order to meet the expanding roles of these departments; and an extra typist attached to the team of medical secretaries presently serving the Consultants.

By the end of this month we will have engaged an additional physiotherapist and two occupational therapists. Two additional registered Mental Nurses have now been attached to the Community Mental Health Team enhancing the important professional service which this Unit is called to provide in terms of mental health care within the community.

Mr Speaker, it is sad to admit that our medical staff, doctors and nurses are increasingly coming under intolerable pressure including physical violence from a sector of the public and this has prompted us to adopt measures of security for their protection. We have now contracted security guards on a permanent 24 hours basis both in St Bernard's Hospital and in the KGV.

Although the bed availability in St Bernard's has improved somewhat of late through the efforts and careful management of the Hospital Services Manager supported by the doctors and senior nursing staff, there is no doubt that the root of this problem lies in the occupation of beds by persons who have no need of hospital care. Whereas in some cases their personal circumstances may well justify their claim for some form of social care and housing provision, in other cases the patients' or their families' refusal to accept the discharge notice and continue to make use of the hospital as a form of long-term residential

respite, conveniently free of charge at the taxpayers expense, is totally unjustified particularly since this may be at the expense of those who really need to be admitted for emergency or for surgery or for acute hospital treatment.

We cannot allow this problem to be inherited by the new hospital and whereas we look forward to the expansion of elderly care within the Social Services as a possible avenue of solution, there is no doubt in my mind that greater discipline will have to be exercised in our secondary care services and in particular in blatant cases of abuse the hospital management will be called to take firm action. I trust their efforts in this respect for the sake of the wider community will be understood and supported rather than denigrated and exploited by any of the parties concerned.

Although the demise of St Bernard's Hospital is nigh we cannot allow the conditions of the old hospital to fall into an unacceptable state of disrepair. For this reason we have carried out extensive works in the Hospital to ensure the efficiency of medical care and the well being of our patients. The hospital kitchen has not only undergone a major physical refurbishment including new wall tiling, new ceramic flooring, water-proofing and painting but we have also purchased new and more efficient industrial cooking facilities which have considerably improved both the quality and efficiency of catering services in St Bernard's and in other outlets depending on St Bernard's such as KGV and the Prison. Because of our concern for in-service training the old nursing school in St Bernard's has been renovated into an in-house spacious resource centre for in-service courses, workshops and seminars, including a doctor's reference library and also a practical hands-on day-release training room. The Orthopaedic and Trauma Clinic is now housed in a state of the art and well provided outpatients-clinic. The Pain Clinic has been resited and fitted out with a mind to an important factor in palliative care, that is, a relaxed and soothing atmosphere. And the bathrooms in Lady Begg Ward have been totally redesigned and refurbished.

Mr Speaker, I have no compunction in stating that mentally sick patients are and have been historically the victims of a general

culture in our society, as well as in other countries, which relegates them somehow to second class citizen status - the second division, so to speak, of the general run of medical care. Valiant work has been done in the past and is being done today by medical practitioners in this difficult and challenging area of medical care but they carry with them this historical backlog which weighs upon their efforts to break through this primitive attitude. We are determined to overcome this unjust, inhuman and discriminatory situation during our term of office and I have commissioned those in the front line of care of the mentally sick, the newly appointed Consultant Psychiatrist together with the Clinical Psychologist and senior staff in KGV and the Community Mental Health Team, to prepare a strategy document outlining the way forward for mental health care in Gibraltar. This too is another element of the overall developmental plan which I have announced earlier.

Meanwhile we have not been dormant in this area during the past year. We have carried out significant improvements in the form of physical facilities and staff resources. We have extensively refurbished the intensive care area in the KGV, previously known as the seclusion area, and the acute area in its entirety, shortly to be followed by the refurbishment of the Long Stay Ward. The Registered Mental Nurse complement has been increased to 14 from four when we took office in 1996. We have contracted a full-time Consultant Psychiatrist and with his co-operation and in liaison with Sheffield University we are conducting a full educational audit of mental care practices at all levels. As in St Bernard's we now also employ at the KGV a security officer who also serves at reception in the Hospital.

The Primary Care Centre, is rapidly establishing itself as a centre of excellence. All the initial technical problems, including air-conditioning and the internal communication systems have now been overcome and last December we had installed a "forcing call" telephone system manned from 8.30 am to 3.30 pm which has greatly facilitated appointments over the phone. The

outpatient clinical services at the Centre have been expanded over the year with the provision of an additional speech and language therapist, a community physiotherapist and an orthoptist. The Consultant Psychiatrist now also holds outpatient clinics in the Centre. The GPs continue to have direct access to radiological investigations and soon within a proper protocol they will also have direct access to echocardiography which we hope will give more fluidity to cardiac investigations.

From all accounts most users appreciate the courteous and the efficient attention given to them by the front line clerical staff at the Centre and I would like to take this opportunity of thanking them especially for their excellent and very polite service to the public.

Mr Speaker, the House will be aware of the current debate in UK concerning difficulties and problems within the National Health Service.

We have traditionally looked to UK for specialist investigations and medical treatments which are beyond our resources locally and whereas the clinical expertise and attention our patients receive from specialist Consultants in UK would be difficult to match anywhere in Europe, recently, a certain disquiet has been expressed from User Groups locally such as the Cardiac Rehabilitation Group concerning standards of cleanliness, hygiene, catering and general care administration in some UK hospitals. We have taken these complaints seriously and we have made representations to the management of one particular London hospital concerned – we have to acknowledge the positive response from them to the point of sending a delegation of senior officers to Gibraltar to hear us out. There is, of course, little that we can do from this end other than represent forcefully our concerns. These concerns, of course, have also been voiced in the UK media and have prompted the UK Government to take steps to improve the situation both in terms of massive funding and positive action. I am glad to say that more recently reports from our patients appear to indicate that there is some evidence of some improvement generally.

However, User Groups, and particularly again the Cardiac Rehabilitation Group, have suggested that we look to Spain, where the standards of medical care are recognised today as being among the highest in Europe for possible referral of our patients. Indeed, we already make use of many facilities in Spain, such as the neurosurgical and vascular services in Cadiz; the neonatal services in Malaga; the excellent nephrological services including haemodialysis of all our patients requiring such treatment in La Linea; diagnostic imaging, that is, CT scans and NMRI, usually in Algeciras; and cardiovascular diagnostic services such as echocardiography in Algeciras. It is our intention to expand these services and for this purpose I have commissioned our administrative and clinical management teams to survey the existing medical services in Spain, particularly in the neighbouring regions to identify centres of excellence which could be offered on a voluntary basis to our patients requiring treatment which cannot be offered locally. In other words, the option would be given to individual patients to be sponsored for treatment in UK, as is customary at present, or to be sponsored to relevant medical centres in Spain. In fact, this is already happening – some patients have requested that they be referred for treatment to identified medical institutions in Spain and with the consent of the local Consultants they have been sponsored by the GHA.

At a political level I am currently holding discussions with relevant authorities both at a provincial level and with authorities of the autonomous government of Andalucia to explore systems and practical arrangements which will facilitate our policies in this respect. I can say at this stage that initial approaches have met with a very positive response from all the authorities concerned. I want to stress that in seeking these avenues of medical care in Spain for our patients we are not just thinking in terms of the obvious cost-saving exercise but mainly of the benefit to our patients particularly by avoiding the traumatic effects of distant dislocation from the home family environment, which is in itself a therapeutic consideration, but, as I say, Mr Speaker, at all times the option will be offered to individual patients on a voluntary basis.

The House is aware that private practice by consultants is now highly regulated to ensure that it does not detract from or encroach upon the Consultants' duties to serve the general public through the General Practice Medical Scheme. Essentially what this means is that Consultants are paid on a full-time basis to serve the GHA public patients and may only treat private patients outside these paid working hours. Moreover, even outside these contracted working hours they are conditioned to an on-call service to attend to emergencies involving public patients. There are other specific stipulations: outpatient clinics for private patients may be held only after 3.30 pm and surgeons are allowed only one major intervention a week or alternatively two intermediate or three minor operations. In order to monitor these basic arrangements all private appointments and billing for these private services together with regular information about waiting lists for public patients have to be centralised within the GHA Records Office and the Accounts Department. Consultants have also agreed to maximum waiting times for public patients both for outpatient consultations or in-patient surgical operations.

In order to ensure total adherence to these agreed regulations a sub-committee of the GHA chaired by the Deputy Chief Executive and Director of Operations has been appointed to monitor and report to me any breaches of the agreement with a view to disciplinary action. I can report to the House that the latest report from the Chairman of the Sub-committee states that:-

1. All bills for professional services by Consultants are produced under separate cover to the GHA Accounts Department;
2. Consultants are now regularly surrendering all their waiting lists which are updated on a weekly basis;
3. Accounts of payments due to the GHA for services to private patients have now increased by 100 per cent as a result of up-to-date billing and of private patients being declared;

4. Only the Ophthalmology Department has been unable to contain waiting times to the agreed 10 weeks for out-patient consultations and 10 months for surgery – this is now being corrected as I have reported earlier by the engagement of an Optometrist and an Orthoptist to release the Consultant Ophthalmologist of these primary tasks which are very time consuming and thereby reduce those waiting times.

I wish to put on record my appreciation of the forthright and efficient intervention of the Director of Operations in achieving the positive co-operation of Consultants to ensure genuine compliance with the principles and requirements of their contractual agreement on private practice.

Mr Speaker, to round off my report on the Health Services I will now turn to an area which in a sense could make at least some of the activities I have described up to now quite redundant – and that is what could be broadly described as “preventive medicine” and which comes under the responsibility of the Department of Public Health. This department is instrumental in wide educational campaigns in schools and throughout the community to create a general awareness of health risks and to foster life-styles conducive to healthy living. These include the “Heartbeat Award Scheme”; a survey into obesity among children in Gibraltar; the No Smoking Day; the Fun Walk; the walk to school day (relevant, perhaps, may I say, to the issue of School Hours); the Sun Awareness Campaign; the Mental Health Day and the World Aids Day, et cetera.

The underlying thrust of this department is to provide an objective and scientific framework to all public health initiatives. Perhaps the most ambitious initiative has been the mass immunisation of all school children against Meningitis C. The department has also given a lead to introduce computerisation in primary care and to establish a proper and comprehensive statistical database across various fields of health care. Speculation and rumours abound with respect to the incidence of cancer in our community. This is understandable but it is important to establish a scientific database to come to any meaningful conclusions. I announced

last year during the same budget session that the Director of Public Health was carrying out a cancer registry to track down, record and monitor every case of cancer diagnosed in Gibraltar. Since this started on 23<sup>rd</sup> November, 1999, the registry has now recorded 449 entries in respect of 408 persons up to May 2001. Following guidelines established by the International Association of Cancer Registries, of which we are an associate member, it will now be possible to produce an analysis and interpretation of our database and this will be published in this year’s Public Health Report.

Finally, Mr Speaker, I have attempted to present to this House and, indeed, the community as a whole the Government’s vision for a new era of excellence on the delivery of health care to our people and also an indication of our strategic plans and determination to translate this vision into practical reality. Some cynics will retort: “it is about time”. They are in one sense right and in another sense unfair. It is unfair to imply that little has been done in bringing about great improvements in our health services over the last five and half years but the cynics are right to put on record that when our Government came into office in 1996, we inherited a historical back-log of political mismanagement leading to unprofessional practices, amateurish and bodged-up solutions, cronyism in appointments and promotions, disregard for professional training and academic achievement, and, above all, a short-sighted anti-intellectualism which led Gibraltar to the verge of “third-world” standards not only in health care but in most other areas of community governance.

Mr Speaker, I now turn to Education. Tony Blair expressed his commitment to Education some years ago with the words “Education, Education, Education”. I begin to doubt, whether this was meant perhaps unconsciously as a cry of despair rather than as an expression of commitment. The fact is that Education in the United Kingdom has undergone serious difficulties over recent years and radical changes are being introduced to meet these difficulties in the way of curricular reforms, teaching methodology and in terms of structures and systems. Not always have these changes been received with enthusiasm by educators and

teachers or without controversy and criticism. Indeed, the situation in UK, as probably Members of the House are aware, has become quite critical because of the shortage of teachers and the difficulties being encountered in recruiting teachers generally and headteachers in particular. Fortunately, in Gibraltar we have no problems of recruitment or retention of teachers, in fact, not all graduates returning from Colleges in UK every year can be employed by the Department on a full-time or permanent basis. The changes in UK do present us with a serious challenge since our system is modelled on the UK system, anchored as it is on the National Curriculum, and leading to GCSE and A-level examinations validated by UK examining boards, so it is important that we keep pace with developments in UK.

One of the main developments has been in the area of post-16 education, in other words the pre-employment or pre-University stage of education. The new post-16 curriculum will enable the schools and the colleges to offer broader, more flexible programmes including the opportunity to combine academic and vocational study, while maintaining rigorous and demanding standards.

This may involve:

- Studying a wider range of subjects
- Combining academic and vocational study
- Developing key skills
- Participating in enrichment activities

In Bayside and Westside, students will now study a maximum of four A/S (Advanced Subsidiary) subjects in Year 12, that is, the first year of the Sixth Form, followed by three 'A' levels in Year 13, although some students may continue with two or four 'A' levels depending on ability. The College of Further Education will be offering a programme encompassing vocational and academic courses.

In addition, key skills will be taught leading to a Key Skills qualification which recognises achievement in the key skills of

communication, application of number and Information Technology. These are being introduced to encourage students to gain the skills, valued by employers and in Higher Education and that are important to lifelong learning.

Staff in our schools engaged at this level of the Curriculum have been offered the same level of training as UK staff. All staff are being provided with information, training and development to help them understand the aims and implications of the new qualifications and the new curriculum.

Nevertheless, I have appointed a working group chaired by the Director of Education and Training with representation from the two secondary schools, the College of Further Education, the Training Unit and the Employment Service in order to monitor the introduction of these changes which are indeed proving very demanding both for pupils and staff and advise the Department on measures that may be required to ensure their success and to review generally the provision of post-16 education in Gibraltar.

Mr Speaker, the fact that around 40 per cent of our annual pupil intake gain access to Higher Education in UK is proof of our success in preparing our students for public examinations. We think every year that we must have peaked in the overall percentage pass rates, but once again this past year the pass rate in GCSE, that is, from A\* to C grades was 68 per cent, up from 64 per cent the previous year and at A-level 91 per cent up from 89 per cent the previous year. These are results which place our schools among the top schools in UK league tables.

The Government continue to pay tuition fees to Universities and Colleges for all our students although the British Government, as is known, have ceased to do so, and this has meant a heavy bill on our recurrent expenditure on scholarships. We have 730 students sponsored for higher education in UK and the cost of tuition fees last year amounts to £964,561.

Moreover, the costs of maintenance and lodging in UK are becoming increasingly onerous for many parents in spite of our grants. The Government have endeavoured to keep up with

inflation rates in UK over recent years by raising grants accordingly – air travel allowance alone has been increased from £374 when we came into office to £730 today. Also as from the start of this academic year we have complied with our electoral promise to increase all maintenance grants by 10 per cent and reduce by £500 per annum parental contributions of parents with joint incomes below £20,000 and by £350 for those with joint incomes above £20,000 thereby benefiting all parents but supporting more substantially those with a lower income.

As a result of these measures the maximum grant, to which 314 students were entitled, rose last September from £3824 (London) and £3110 (elsewhere) to £4206 and £3421 respectively, and the minimum grant, awarded to 55 students, from £1297 (London) and £687 (elsewhere) to £1427 and £756 respectively. Overall these increases have resulted in an extra cost to Government of £361,065, a 21 per cent increase. The Government believe that this considerable budgetary expenditure is a worthwhile investment in our future aimed at ensuring a highly educated community as the mainstay of our economic development and also of our social advancement as a people. But we are also conscious of the abuse of the system by claimants whose real means do not correspond to their income tax returns. I have already taken action and will continue to do so against this abuse by using the discretionary powers which I believe the Educational Awards Regulations 1990 allow the Minister in assessing “the total income from all sources”.

Another innovation in UK has been the National Curriculum 2000 which has been implemented locally very successfully and without much hassle, a sign of the professional readiness of our teachers, achieved by continuous professional development and their dedication to the job.

Perhaps the main event this past year within the on-going programme of professional development for teachers run by the Department of Education and Training, has been the Diploma in Special Educational Needs awarded in May to 17 teachers and three more who will be completing next September. The award

ceremony was held in the Garrison Library and was presided by Professor Sheila Wolfendale and Dr Trevor Bryans, joint authors of the Croydon Profiles. A further Diploma course will be offered as from next October focusing on educational management and aiming to prepare teachers aspiring to middle and senior management posts. This course will lead sequentially to Certificate, Diploma, or Masters levels enabling teachers to pursue their studies to the level they require.

School-focused visits continue to be undertaken jointly by UK OFSTED inspectors and the advisory service, sometimes joined by school senior management. Although teachers were at first understandably concerned at being directly observed in the classroom, the benefits I think now are generally appreciated.

The Government’s policy of social inclusion and behaviour modification rather than exclusion and rejection continues to guide planning and the allocation of resources. An increasing number of children with Special Educational Needs are being successfully integrated into mainstream education with the consequent increase in spending on extra support and teaching staff. It is also the Department’s intention to increase the level of support to schools in the form of an increased peripatetic staff to help solve the more complicated forms of misbehaviour in some children.

Another feature of the UK National Curriculum 2000 is the development of innovative literacy and numeracy strategies in primary schools. This together with new A-levels at secondary level will necessarily be our priority in funding under Head 1A Subhead 4(b) for Books and Equipment.

It is the policy of Government that primary schools be community based and easily accessible to parents and children. The allocation of children this year to schools within the established catchment areas has yielded manageable numbers keeping to acceptable teacher/pupil ratios in class sizes. But it is not always possible to accommodate transfer requests from parents who may have difficulty in the collection and delivery of children. The change of school hours should help to alleviate this problem.



The Government have no doubt, that in changing the present school hours to enable children to stay in school for lunch, we are responding to a sociological reality in Gibraltar today – that is, the increasing number of working mothers who find it very difficult to adjust their working hours to the school hours as they stand at present. In response to this, the Government are committed to change the school hours. Because this is a major change with far-reaching social and sociological repercussions we have wanted at all times to seek the widest possible consensus among all relevant parties in the community. This has not been easy. For this purpose we carried out an extensive survey of the views of parents and teachers in January this year and whereas the parents overwhelmingly opted for a one-hour break after the morning session which would enable children to stay in school for lunch or continue to go home for lunch if they so wished, the Teachers' Association subsequently in February proposed to Government a much shorter lunch break of 20 minutes which would be supervised by teachers themselves. Government felt that out of deference to the teachers this explicit proposal should be put explicitly to parents in a further survey of their views which was issued on 8 May. This has considerably delayed matters but we now have a comprehensive response of parents in this context and we will soon be able to make an announcement in this respect. Meanwhile, extensive works to the value of £750,000 have been carried out throughout the year in all our schools to ensure that the pupils will be accommodated safely and comfortably to enjoy their packed lunches provided by their parents.

Mr Speaker, it is recognised by educators that pre-school education is a crucial factor influencing a child's whole school career. This Government can claim to have extended pre-school education from a mere 135 places when we came into office in 1996 to 315 today. Last September we opened another nursery in the South District at St Joseph's School, as promised in our manifesto. This together with St Paul's Nursery, Notre Dame Nursery, St Bernard's Nursery and the pre-school assessment unit attached to St Martin's Special School will now provide

Government pre-school education for over 78 per cent of the total annual average intake.

Mr Speaker, over the past financial year we have invested large capital sums in the physical infrastructure of our schools: a magnificent gymnasium, to be used also by the Community, in St Anne's School together with six additional classrooms and new showering and toilet facilities; in Westside School a large new Hall for assemblies, examinations and school meals, allowing the School Gymnasium to be used exclusively for sports activities throughout the year; in Bayside School a new building consisting of a large hall, three classrooms and a medical suite cum chapel; in St Joseph's Middle School a new Sports Hall which will release the old band-room for school meals; in Sacred Heart School we have refurbished the magnificent rooms which had been derelict for years at the top of the main building and which had been badly vandalised; in St Joseph's First School a new Sports Hall allowing the existing inadequate gym to be used as three additional classrooms; in Notre Dame School a new building in the large playground area to be used as a lunching facility; in the College of Further Education we have created a new resources centre cum library with good quality IT equipment. I want to acknowledge with appreciation that it has been possible to carry out this extensive construction programme in less than one year, only as a result of the commitment and efforts and enthusiasm of the Department's Administrative Officer, the Technical Officer and the efficiency and productivity of the management and workforce of GJBS Ltd.

Another major change in the structures governing the educational system in UK has been the Government's proposals for performance related pay to teachers. It is a system too complex to spell it out here, but again it has not been free from controversy and conflict in UK. However, the NAS/UWT (National Association of School Teachers and the Union of Women Teachers) to which the Gibraltar Teachers' Association is affiliated, have now reached agreement with Government in UK on a salary claim based on an agreed model of appraisal and they have now extended this claim on behalf of their members in Gibraltar. The Government have no problem in meeting this claim on the basis

of parity and we are now in negotiation with the Teachers' Association to this effect. In anticipation of this claim the Department has already undertaken suitable in-service training of headteachers and advisory staff to manage the required performance appraisal of teachers.

An important development that we look forward to during the coming financial year is the relocation of the Training Unit presently and temporarily housed in Bleak House to new premises, soon to be announced which will include a careers advisory unit, facilities for IT training, accommodation for in-service courses and facilities for teachers meetings. The Teachers' Centre facilities, including a specialised library to be restored after they were removed by the previous administration. The Teachers' Association will also be allocated suitable premises within the Centre.

Sports education is seen as an important element of the school's broader programme of personal and social education. As always the Department and the schools have been heavily involved in the development of sports in the community in close liaison with the Sports Development Unit. In particular some of our teachers have trained together with the Sports Development Officer to qualify as instructors of the TOPS scheme and they in turn have been inducting our PE teachers to deliver the programme to the children in our schools. All our schools have teachers qualified in the delivery of the TOPS scheme. The commitment of our schools to sports education has been demonstrated over recent years during the successful Straits Games.

Mr Speaker, this Government believe that in spite of the abrasive policies of the Spanish Government towards Gibraltar, it is important to forge links of friendship and co-operation between the peoples on both sides of the border, especially the young. This civilised approach is shared by educators locally and indeed in the neighbouring regions. It would be cumbersome to list here the countless educational exchanges which have taken place over the past year between teachers and hundreds of pupils from schools in Gibraltar and Spanish schools from La Linea, Los

Barrios, Algeciras and San Roque. At a later stage I will give details in this context of other important events of an academic significance which have taken place during the last year under the auspices of the Ministry of Culture.

I would like to conclude this report on education covering the main developments in the field of education during the past financial year, the prospects for the forthcoming financial year, with a word of sincere congratulations to Bayside School and in particular the History Department of that school for the most successful and meaningful Evacuation project which culminated in that splendid and enjoyable community verbena evening in the school playground. Deservedly the School, I am glad to say has won this year's senior Heritage award and the history department students involved have gained the junior award. I am sure all members of this House will join me in these words of congratulations.

Mr Speaker, I will now pass on to my responsibility for Training. The Government believe that training to ensure the development of skills at all levels and in all spheres of activity is a crucial vehicle to sustain economic growth and permanent employment and at a deeper level perhaps to bring about a sense of purpose in our community.

During last year's Budget debate I gave a detailed account of the many schemes now operated under the auspices of the Government's Training Unit. It would be cumbersome to report here on the numerous schemes which have been developed since then. What I do want to stress at this point is that all these schemes form part of a comprehensive and consistent programme drawn up by the Training Unit of the Department of Education and Training responding to 'real' needs as identified by the Training Advisory Council which we have created to represent all relevant parties including the Employers organisations and the Unions.

In 1998 the administration of training activities was handed over to the Department of Education and Training and much has been achieved during these past three years. Under the direction of a

qualified Training Officer and a team of Training Monitors a number of major benchmarks have been outlined over the last three years and I am pleased to say that all of these targets have been met, including:

- (1) The introduction of properly organised training qualifications in the form of National Vocational Qualifications that are recognised and accredited by UK awarding bodies such as the City & Guilds Institute and the Engineering & Marine Training Authority.
- (2) The setting up of an important consultative platform in the form of a Training Advisory Council.
- (3) Properly funded structured training schemes that span a whole variety of sectors particularly professional courses in the finance and business sectors.
- (4) The extension and improvement of the Gibraltar Construction Training Centre, together with proper conditions of employment for its staff, in consultation with the Trade Unions.
- (5) The extensive refurbishment of Bleak House.
- (6) The refurbishment of a joint Government and Cammell Laird Training Centre and subsequent extension, to accommodate apprenticeships, not just in fabrication and welding, but this past year also new and important allied trades such as electrical and mechanical engineering disciplines.
- (7) A revision of the role of the Gibraltar College of Further Education.
- (8) The transfer to the Department of Education and Training of the 'Our Lady of Europa' Training Centre, for the provision of sheltered vocational training schemes for young people with special needs.
- (9) Continuous Professional Development for our civil servants.

- (10) A well monitored and properly structured on-the-job Vocational Training Scheme for school leavers.

The Government have also ensured that these benchmarks have, where eligible, utilised appropriate funding from the European Union to help supplement our own training funds.

The Department of Trade and Industry has indicated to my Ministry, that the following private sector segments of the economy will see a continuous rise in activity and potential growth. These include the Maritime and Port Authority; Tourism; Financial Services, inclusive of e-commerce; Construction and Dockyard activities. In maintaining Government's holistic approach, we, therefore, propose to support these sectors by continuing with structured and comprehensive relevant programmes that will be quality assured, and modern and practical to implement.

The Government intend to consolidate further the provision of NVQs through the UK Awarding Body known as the Merchant Navy Training Board (MNTB), for those people within the maritime sector. All of these will be conducted at the Warnash Institute, near Southampton.

This year will see the development of further programmes for those dealing in Financial Services. For example, this will include more training for people wishing to acquire Certificates for Financial Advisors (Cefa) and recognised accountancy qualifications, through the Association of Certified and Chartered Accountants. A major initiative is also being prepared for the local insurance sector, which will see seminars and tuition for those seeking recognised qualifications through the UK Chartered Insurance Institute. The Government are also presently studying ways of introducing training within the fields of e-commerce and the Internet, and further details will be announced in due course. There is a committee planning this programme of study and training. Bleak House currently provides courses for Legal Executives through ILEX and Chartered Secretaries through

ICSA. These and other courses will continue to be made available in reply to local demand.

The Gibraltar Construction Training Centre can boast of a Level 3 Centre Approval status, through the UK City & Guilds and the Construction Industry Training Board (CITB) Joint Awarding Body. It may now be referred to as a "Centre of Excellence". The local construction industry is buoyant and thriving in the present spate of business activity. The Government, therefore, after much consultation with the Construction and Allied Trades Association (CATA), public sector Departments and the Transport and General Workers' Union (TGWU), is close to developing a new and locally tuned NVQ. Many of the apprentices who are currently undertaking NVQs are deployed within GJBS Ltd and the Department for Buildings and Works, and a number have been offered permanent employment. The Government have this year supported a 7<sup>th</sup> intake leading to NVQ Level 2 and 16 people are currently embarking on different construction trades. Finally a new Approved Prior Learning (APL) scheme has recently been developed enabling experienced construction workers without qualifications to gain recognition for their experience.

The Joint Government and Cammell Laird Training Centre, has received Centre Approval status, through the Engineering and Marine Training Authority, for NVQs in Fabrication and Welding, Electrical and Mechanical Engineering, up to Levels 2 and 3. Up to 11 apprentices received their NVQ Level 2 Foundation Certificates last year. This year, Government are pleased to announce that a further 15 to 16 apprentices will be presented with NVQ Level 2 Certificates, whilst intake 2000, will be completing their NVQ Level 2 later this year.

Mr Speaker, the Government in partnership with employer organisations have designed and developed a Secretarial and Business Administration training scheme, leading to a diploma. This is accredited through the London Chamber of Commerce and Industry (LCCI) and involves a balance of modules including the competent delivery of IT software packages, organisational

studies and important secretarial operations that help underpin supporting activities in business.

Mr Speaker, turning to culture, was it not Shakespeare who wrote: "All the world's a stage and all the men and women merely players".

I very subjectively interpret these words of Jacques' soliloquy in "As you Like It" as pointing to the fact that the Arts ("the stage") permeate all facets of human endeavour. The human, social and ethical quality of a community is reflected and indeed measured by its commitment to cultural pursuits. These thoughts may well serve as a mission statement for the Ministry of Culture.

In this sense I am happy to report that there has been a manifestly renewed vibrancy in recent years in all fields of the Arts and Culture in Gibraltar. The policy of the Arts Advisory Council, which we reconstituted after the dormant years of the previous administration, has been to encourage artists in the various spheres of the Arts to organise themselves into collective groupings or associations in order to promote better their aims and aspirations. As a result over recent years we have seen the creation and growth of the Arts and Crafts Association, which has now been allocated premises in the vaults of Casemates Barracks, the Gibraltar Dance Association, the Gibraltar Dance Organisation, which continue to sponsor our very successful participation of our talented dancers in international competitions, the Gibraltar Philharmonic Society, which has brought to our ears in ample measure the strains of good classical music, the Fine Arts Association, which help to organise two major Fine Arts Exhibitions annually – we have now also allocated to this Association premises in the Ince's Hall complex, and, lately, the Gibraltar Drama Association, which has succeeded this year in bringing back to our "stage" the traditional Drama Festival – they too have now been allocated premises in the Ince's Hall complex; and Enclave XXI which is a joint venture between local musicians and the Conservatorio of La Linea to bring together musicians and music lovers on both sides of the border.

The Ministry of Culture supports these organisations, as well as other individual artists and groups who seek Government's help through funding from the cultural grants vote and through logistical support such as the provision of premises and venues for concerts et cetera.

Perhaps, the clearest expression of what I referred as the renewed vibrancy in the Arts has been the packed programme of events which we have just witnessed and enjoyed during the Spring Arts Festival. Nearly every day during May has been marked by some cultural event or activity, exhibitions, concerts, shows, and the increasingly popular Spring Art Exhibition which now complements the traditional International Art Exhibition. The Spring Arts Festival was brought to a grand finale last Friday with the finals of the prestigious Enrico Caruso International Voice Competition organised by the Philharmonic Society supported and funded by the Government together with other private sponsors and which brought to the Rock brilliant young sopranos, baritones and tenors from America and Europe to delight us with their singing in the majestic setting of St Michael's Cave backed by the magnificent Transylvania Orchestra under the baton of our very own Maestro Karel Chichon.

Perhaps one of the most satisfying enterprises taken on board by the Ministry of Culture during the past year has been the erection of a monument commemorating the Evacuation of our people during the Second World War. The Ministry commissioned a well-known sculptress, Jill Cowie Sanders to produce a cluster of statues to represent the return of the evacuees after the war and the joyful coming together of families separated during the war years, we decided to erect the statues precisely on the spot where it all happened – at the Waterport area. The beauty and pathos of the sculpture has been acclaimed by most people especially by those, like me, who went through the evacuation experience.

Mr Speaker, the Ministry of Culture is actively pursuing joint cultural activities with our neighbours in the Campo Area and indeed in the province of Cadiz. Perhaps the most serious

academic event this year was the VI<sup>th</sup> Jornadas de Historia del Campo de Gibraltar, organised by the Instituto de Estudios Campogibraltares, which on this occasion was held in the John Mackintosh Hall. This conference brought together eminent historians from all over Spain but especially brilliant, I have to say, were our own historians and over 50 per cent of the contributions centred around topics of local historical interest. These contributions have now been published very nicely in a special edition of the Review Almoraima, which I commend to all Members of the House.

The House is aware that in 1999 the President of the Diputacion Provincial de Cadiz, Don Rafael Roman together with the Chief Minister signed an important statement, which among other things, including a condemnation of the frontier harassment by the Spanish Authorities, agreed to institute a Cross-Border Centre of Studies and Research (Instituto Transfronterizo del Estrecho) with twinned centres in La Linea and Gibraltar. The Instituto was launched in November last year with a brilliant symposium which brought together scholars and scientists from as far afield as the University of San Diego, the Colegio de la Frontera Norte de Tijuana (Mexico), the University of Toronto (Canada), the University of Cadiz, the Complutense of Madrid, the International University of Andalucia, the University of el Pais Vasco, the Trade Union of Journalists in Morocco, together with a good number of local participants. The Institute is already active in organising lectures, conferences, seminars intended to bring about at a serious academic level a deeper understanding of matters related to the history, the economy, the culture, and social factors which characterise the regions around the Straits of Gibraltar.

Finally Mr Speaker, "all the world's a stage" but the stage that we look forward to see restored and re-opened once again is that of the Theatre Royal. I am happy to conclude my report with the heartening news that the project is well on schedule, that the final design will be put before Government in a matter of weeks and construction will start soon after that with stage curtains to be raised once again in the historic Theatre Royal by the summer of 2003. On this happy note, I conclude my presentation to the

House of my ministerial record, aims and objectives for the coming year in Health, Education, Training and Culture. It is a matter of personal pride to me to have ministerial responsibilities in areas, which as I said earlier are marked by human needs and aspirations and it is also a matter of pride to me to serve in a Government which, as demonstrated in this Report, is rightly but not solely committed to economic development, but also genuinely committed to the care and the social well-being of our people. I thank you Mr Speaker, and all Members of the House for your attention throughout this lengthy report and I commend to the approval of the House the items of expenditure under heads 1A, 1B, 1C, 102, Appendix B and Appendix C of the Estimates of Expenditure 2001/2002.

HON S E LINARES:

Mr Speaker, when analysing the draft Estimates and considering the fact that this Chamber is the place to debate the political consequences of how the Government intend to run the economy, it can clearly be seen that the direction the Ministry of Education, Training, Youth and Culture is going, is not only bleak, but extremely worrying to say the least.

The lack of forward planning, the way important issues that affect people's daily lives such as the change of school hours are conducted, the priority the GSD Government give to be seen to be doing the right thing rather than actually doing it right, and for the right reasons. Trying constantly to ridicule positive initiatives from whichever quarter this may come and at times showing incompetence and either trying to blame someone else or going to the extreme of trying to mislead the public.

Mr Speaker, I will begin with the youth part of my portfolio but because unfortunately it was moved to Public Services, the Environment and Sport under the auspices of another Minister it would be helpful if the Minister had a comprehensive long term youth policy in order to try and assimilate some of the changes that seem to be happening. I have received numerous complaints from voluntary youth workers about the fact that they do not

understand why for example some youth clubs are not able to open during the weekends and why the Youth Service now no longer supports certain functions that youth clubs have traditionally organised.

When looking at the Estimates under Head 4G Youth Affairs, at least for the last three years, it is clear that the GSD Government are not committed towards this important social group that is going through change.

With the advent of all the technological advances, a different way of looking at life for young people, and the changing interests that our youth now have, it would be wise to take heed of the cries of the people in the know and put heads together and produce a comprehensive long term policy for everyone to follow and Government to support this with the adequate funding necessary to make those changes. The last thing we need is for the volunteers who perform an excellent job in forming our youth for adult life to be de-motivated to such an extent that their invaluable work is to be lost simply because of the lack of funding or because they do not see a clear direction because of the Government's lack of foresight.

On Culture, Mr Speaker, we see that this Government seem prepared to make funds available for cultural activities, but it must be said that the price to pay is censorship by a Government Minister. It is the belief of this GSD Government that since they are Government sponsored exhibitions and events that they have the right to censor.

We must not forget the actions taken by this Government in the International Art Exhibition. This action by the Minister clearly demonstrates their right wing credentials since the offensive piece was removed as far as the general public was concerned because of political reasons rather than for its sexual connotations. In fact the Chief Minister went as far as saying in the supplementary to Question No. 226 of 2001 and I quote: "The answer is that what is socially acceptable in Gibraltar in terms of what is and what is not grossly offensive and what should and

should not be exhibited to the public in Gibraltar is not a matter that can be left to adjudicators, who are not applying the criteria required for that. They are simply looking at it from an artistic point of view”, that is the answer to his question, “It is the Minister who is the person that is in a position to do that.” He went on to say, “What censorship simply means is that one prevents something from being said or done and that is exactly what happened”.

Art, is for the artist to express feelings and to put his/her ideas forward for others to either appreciate or dislike and at times it might be offensive to the onlooker. At this point I would like to use a piece extracted from the European Court of Human Rights that defines Freedom of Expression.

“Freedom of expression” is applicable not only to ‘information’ or ‘ideas’ that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb the State or any sector of the population.”

On the Training front, this Government only recently came out with a press release trying to give the impression to people that they are doing many things in relation to e-commerce. In answer to Question No. 260 of 2001, the Minister stated that the Government’s committee on e-commerce proposed to ensure that good resource provision is available at all levels to enable school leavers and others to obtain appropriate IT skills. He also said, “I do not want to create the impression that we are lacking in resources here and now. We are fully resourced adequately in our schools for the teaching of Information Technology. All theory because as he well knows or if he does not, I will tell him, the College of Further Education has had its library closed for a year and only opened on the 4<sup>th</sup> June after I put a question to this house. The Resource Centre in which the 106 computers that should be available to students has been closed for more than a year. Westside Comprehensive that accounts for at least 50 per cent of the children at Comprehensive level does not offer IT at GCSE or A-level and we have received numerous complaints from some students of the availability of computers in Bayside

and students having to go to Bleak House or other places to continue with their course works. It is no wonder that the Chief Minister says that we are lacking in human resources and that some people do not have the knowledge and skills for e-business.

At the other end of the education system, for example nursery education, it is very disappointing to see that what was the goal last year as stated by the Chief Minister in his reply to my budget analysis has not happened and more importantly it does not seem to be happening this year either. In this draft Estimates there is no increase in the complement or establishment to say that another Government nursery will be opening or even more places in the existing ones. In fact the Chief Minister said and I quote: “One cannot go from a position of 120 to a position of 450 within a year, he must understand that the deployment of public resources have to be paced and the improvement to public services needs to be gradual but, frankly, I do not disagree with him if he says that the objective should be 100 per cent coverage of pre-school education”. It is therefore obvious that they have abandoned this objective since there is no signs in the Estimates that show that they are moving towards 100 per cent coverage in pre-school education. Let us not forget that it was the Hon Dr Linares who said “Effective pre-school education is recognised today as a key factor in successful schooling”, which I agree.

Staying on the same issue, another disappointing factor is that the GSD Government in nearly six years that they have been in office have still not regulated nurseries and every time that I have asked this question I seem to be getting the same answer. That is, that it is for the Council of Ministers to decide. It is a shame that they in the Council of Ministers prioritise totally irrelevant EU directives that are constantly being brought to the House whilst legislation on such an important matter as our very young children is pushed down the priority list of this GSD Government. Another piece of legislation that we are still waiting for is that to do with children being truant from school. At present the maximum fine for not sending children to school is £5. If we are to believe the phrase ‘actions speak louder than words’, then this Government have

been silent when it comes to certain important educational issues such as the ones mentioned above.

Mr Speaker, the change of school hours is an issue that has been around for many years. We have been toying with the idea for a long time and many surveys and questionnaires have been conducted on this issue. In most of these the majority of both parents and teachers feel that there is a need for change. When looking at the change of school hours the most important consideration must be the children. Yes, Mr Speaker, a cliché indeed. A cliché that has been totally ignored by this Government and what has taken over has been image, hype, what is seen to be politically correct and worst of all the desire for them not to lose support. If a change is to come about in the way this Government are doing so without having analysed the consequences carefully, children will be exposed to being bored and having to roam the streets while they wait for parents to finish work for even more time at one given stretch of time than is the case at present. The Government have totally ignored this fact and therefore at present whatever the change might be, all it is doing is simply shifting the problem of the working parents to the afternoon and worst of all, creating a dangerous scenario with children being able to get up to no good.

The Government have concentrated too much on what times we start and finish school without preparing the ground work for the change itself, by co-ordinating activities and we have heard about sports education and the importance that this Government seem to give to sport education. By co-ordinating activities after school and providing the necessary transfer of children to the venues where these would take place will alleviate that problem. The activities after school could well be done in the schools itself as is at present through the community use scheme. The good school facilities will be available for longer periods and this time alleviating the problem of clubs and sporting teams not having enough venues for training. This scenario means that parents, if they so wish, will be able to be at work at least until 5pm.

What will happen if come September there are not enough supervisors? How much time will headteachers be given to prepare the timetables? How much time will parents be given to reorganise their working schedules and patterns of work? How much time will teachers be given to also reorganise timetables, curricula, et cetera? How much time will be given for the negotiations that need to take place with the teachers' representatives taking into consideration the fact that their working time will be altered and their approval is needed? How will the GTA be able to get a mandate from its members during the summer recess?

This Government committed itself to the change in the last general election as a result of the new package deal put forward by the Alliance. It was obviously a reaction because since they won the general election the commitment that they were clearly not prepared for, is now manifesting itself, via the Government's mishandling of the situation. The sad thing about all this is that this Government are trying to set the parents against teachers in order for them to take steps backwards and hide their incompetence behind a questionnaire that we believe to be null and void.

The first questionnaire that was conducted by the Director did not have the teachers preferred option when the Government knew full well what these were before they brought it out, since the Gibraltar Chronicle published the fact that the Minister was to meet with headteachers way back on the 19<sup>th</sup> of December 2000. The headlines were "Headteachers urge Minister to adopt Continental system". The first questionnaire omitted this option. It came out on the 10<sup>th</sup> of January 2001. The article goes on to say "that headteachers will meet with the Minister today". That unfortunately did not happen since the Minister cancelled the meeting because it came out in the newspapers. So much for open democratic Government.

In an issue as important as this one in which many lives of people are affected, the Government manipulated the second questionnaire to suit their narrow political aim of being seen to be



doing the things the right way, but on this issue the Government have failed miserably.

I can safely say because if we briefly analyse the second questionnaire and the letter attached to it with reference to the draft Estimates, it is clear that they are trying to influence the result.

Firstly, this must be seen in the context that the Government had already started works in schools for a one-hour break even before they knew whether it was going to be an hour or 20 minutes break. The money for this now appears in the draft Estimates.

The questionnaire came out from the Minister's office and the letter was signed by the Minister unlike the first one that was from the Department of Education, that is from the Director who actually signed it.

In questionnaires where one is trying to find out the opinion of people one does not put ones opinion nor advantages or disadvantages on any of the issues asked. The worse thing is that in the letter that the Minister attached to the questionnaire both the advantage and disadvantage given as an example are negative towards one of the options.

Some of the questions posed in the questionnaire do not apply since there has not been agreement with the teachers as to whether they are willing to supervise a 30 or 40 minute break. These are questions 3 and 4. Question 6 is also not applicable since the Minister in answer to a question from a caller in the Viewpoint programme on the Change of School Hours said that not changing the hours at this stage was not an option. Then why the question, "do you think school hours should remain as they are at present?" The questionnaire's final number cannot be accurate at all since the Minister has not indicated to parents who have more than one child whether they should fill one per child or one per household.

Apart from the questionnaire, Mr Speaker, in this draft Estimates presented to us for debate, there does not seem to be any provisions for the monies to be paid to supervisors that will be needed to be employed for this September. There are 76 days left for the beginning of the academic year and for the change in school hours.

To date no advertisement has come out for recruiting supervisors. No one yet knows what the starting and finishing times will be. Taking into consideration the fact that there are approximately 4500 pupils in all schools and taking the fact that the Minister in answer to Question No.266 of 2001 in this House stated and I quote: "An average ratio of one supervisor for 35 children is acceptable". If we take those two figures and divide one by the other there will be a need to recruit 128 supervisors. Even if we take 1000 children who might be deemed to be old enough to look after themselves we will still need 100 supervisors. After having recruited these people during the summer recess the supervisors will obviously have to be trained to be able to deal with children in a manner that is expected from any educational institution.

The Chief Minister accused Opposition Members of being irresponsible for presenting the new deal package because we were going to cripple the economy with things that carry running costs. Does this mean that this Government are going to change the school hours come September without incurring any running costs? Are they expecting these supervisors to do this work for free? It seems so because in this budget, as mentioned above, there are no funds visibly available to pay these supervisors. Or are they expecting the teachers to do this job?

In conclusion, It is obvious then that although this Government are constantly trying to give the impression that all is well, in practice, there are many problems that they are incapable of solving and worst of all, is that with a Minister that is divided by the two biggest departments or Ministries that any country has, the Minister for Education, Training, Culture and Health is unable to cope.

Traditionally the Education Department has been running for years well and our education system is an example of this, but, if this Government continue to believe that the Department does not need direction from the Minister, the system that we are all proud of, will crumble and the signs that this is happening is evident by all that I have said.

With the changes that have come about in our society and the fact that a golden opportunity is in front of us, with the majority of people agreeing that a change to our school hours is necessary, we are able to witness a Government that do not seem to have a long term plan which is what is needed. The Government do not seem to understand the real concerns of ordinary people. To date the Government are acting in the most irresponsible manner jumping from one crisis to another. Forward planning does not seem to exist. They create problems which they then find hard to solve. In this situation the Government resort to attempting to manipulate public opinion, but fortunately the people of Gibraltar are intelligent enough to realise this.

Mr Speaker, it is our legitimate right and duty, that is what we get paid for, to criticise Government in all areas that we feel that they are mishandling situations, lacking foresight, and where they are trying to hide their incompetence with street parties and other gimmicks. In the case of my portfolios there is no room for mistakes because they deal with the human, social and moral development of people. Government are definitely not keeping to the standards and performance that is expected of a caring, sensible and even prudent society. "You can fool some people some of the time, you can fool some people all the time, but you cannot fool all the people all the time".

HON K AZOPARDI:

I do not know if this is the graveyard slot, but given the long hot day we have already endured, it might be, I have spoken later before, so it might not, I live in hope.

After that emotive speech from the hon Member on Education, which I will not respond to, I will leave it to the Chief Minister to deal with, I expect that my contribution will be somewhat more docile.

Mr Speaker, mine is a small budget, but I like to think that it is an important one because the Chief Minister explained this morning how the economy and economic progress is so important to this community to be able to fund the social progress of the Government's agenda and really the economic engines are spread across my ministry and the ministry of my Colleague, Joe Holliday, who will speak tomorrow on all those issues. So I will give an overview of my own particular economic engine, the Chief Minister has already spoken and dealt with some ground, so I will not go into great detail about that, I may gloss over certain areas because they have been covered extensively this morning.

My department is spread across four main divisions: Commercial, Heritage and Planning, Communications and Technology and the Finance Centre. I said last year that we had a broad ambition to try to create good atmosphere in Gibraltar for local businesses to prosper across all fields and, indeed, also to create a good climate for inward investment and I said also that while we would intend to promote that across a broad philosophy, which I outlined last year and I will not repeat, that it would be a four year process and a four year judgement, and I expected people to judge whether I had been successful in this ministry at the end of that period. I make a point that clearly after 12 months, there is some progress, but the ultimate judgement will be at the end of that period and of course the electors will be the ultimate jury in respect of that.

On commercial matters, Mr Speaker, I did touch upon the old EU Funding Programme last year. Indeed, that programme is now coming to an end given that the deadline for expenditure for most projects that were approved under 1997/1999 programme, will be up on the 31<sup>st</sup> December last year. The major projects are there and those funds were used to deal not only with private sector projects but also with major public sector infrastructure projects.

The major project that is remaining is the Theatre Royal, which my Colleague did touch upon just earlier and we hope that that will progress as soon as possible so that we can reach the manifesto commitment of having a refurbished Theatre Royal. There are other projects in the old programme but that is the main one. There has been approval of the new programme for 2000/2006 and that approval, bureaucratic process as it is, has to be submitted to the European Commission and it goes through long processes before being approved. We are going to get about £750,000 a year for EU Funding programmes and we now want to encourage people to come forward with applications. We have tried to channel applications for funding through the Gibraltar Enterprise Scheme while the bulk of 2000/2006 programme was not approved, but as it now is we are now keen to receive applications for funding and indeed we are going to promote that quite soon. The hon Member who speaks on Trade and Industry matters in the Opposition last year made the point that, in his opinion, there was no sufficient awareness of EU Funding programmes. Let me say that we are taking a very active line on dissemination of information and we hope to take a more vigorous line also now that the programme has been approved. We have an EU newsletter which comes out and is circulated as an insert in most newspapers in Gibraltar. The Business Advisory Unit in July last year issued a new explanatory leaflet to add to the other material that is already available and I think it is an easy to use explanatory booklet, which outlines the licensing processes that need to be followed if someone wants to set up a business. I think it is a helpful publication and indeed I have to say that I do not share the hon Member's view that there is insufficient information, but in any event, I will say the Government and the department are taking an active interest in ensuring that there is as much dissemination of information as possible and we are keen to tackle this. I also have to say that while I have regular meetings with the Federation of Small Businesses and the Chamber of Commerce, this has not been a life issue in the last 12 months between us. I have seen statistics from the Business Advisory Unit as to the number of applications that they have dealt with and the applications deal with the whole range of matters from actual funding to just simple advise and

assistance or just simple support or them trying to assist them, people wanting to set up businesses in making contact with other Government departments, that evenly split, I would say half, the usual percentage is that half of the enquiries being received through the BAU are for funding, the rest are split up into applications for premises or for advice and assistance and support. We are keen in any event, and I stressed to the House that we certainly are conscious that there needs to be awareness out there that the programme exists and we also need to encourage people to come forward. I made the point recently when I launched the e-commerce strategy, that the reality is that in the last programme and the programme before that and certainly in the EU Funding programme, which the hon Members themselves administered or supervised over, there are insufficient private sector projects coming forward to take the entire allocation, which makes it necessary for the Government to allocate funds to public sector projects, apart from the fact that the Government may want to do that anyway. It is also a reality that there are insufficient private sector projects coming forward.

Mr Speaker, as I say, the Objective 2 Programme has now been approved and we expect to encourage the private sector to come forward. There also has been an approval of the new programme on Objective 3. Objective 3, as opposed to Objective 2, is more biased towards training programmes. Objective 2 simply is a whole variety of fields, a more general field and the targets are, as the Chief Minister was pointing out this morning, generally economic ones that pull shipping, tourism, urban regeneration and heritage and small business and telecommunications and technology projects. Objective 3 homes in on training and we are keen, certainly the department is keen, to work closely with the Education Department into specific areas, or rather tackle two specific broad things. One is the issue of traditional skills. I think it will have an impact on the Government's target on urban regeneration. There is provision already in the budget and there have been forces set up historically in that field by my hon Colleague who spoke earlier. Also the second area is the new skills enhancement and there we are really talking about IT enhancement.

This year we will see the completion of the Lathbury Barracks and North Mole Industrial Parks. I say this year meaning this financial year. We certainly expect to see North Mole this calendar year, we expect Lathbury towards the end of the financial year and if there is some lapse, perhaps at the beginning of the next financial year. We certainly expect that to be there and we are currently reviewing the criteria that will be applied to allocate these premises to people through a tender process. We expect to take decisions there shortly so that we have a criteria against which to decide these applications. I will also say that the Government are conscious of the difficulty and land scarcity that Gibraltar always faces as an endemic problem. That has always faced successive governments of Gibraltar and we are conscious of the need that reclamation is a necessity and is a necessity, which I think everyone accepts even the Environmental NGOs, accept that Gibraltar to develop, to survive as a sustainable economy, has to undergo and undertake certain reclamation in certain circumstances, where it is sensitive and sensible to do so. The Government of course specifically are also reviewing the use of a site near the North Mole and the Ragged Staff tunnels, which have been handed to the Government from the MOD. We expect again to take decisions once we have been able to assess the implications of the necessary work that needs to be undertaken, especially at Ragged Staff, to be able to make those premises fit for occupation and usage in a commercial way.

Mr Speaker, passing on to Telecommunications and Technology, I would like to use that description for this area, Communications and Technology, because I find that that is a more accurate description, rather than e-business, which I think does not necessarily encompass all the projects that fall into this category. Quite clearly, there are projects of a telecommunications nature, projects of a technology nature, but not all projects of e-business fall into that, so I think this probably describes the division and the work and indeed the area of the economy which is now, we think, under our guesstimate coming through as a main sector.

Mr Speaker, here the Government have launched their strategy and notwithstanding what the hon Member, the previous speaker,

has said about the Government's alleged lack of direction, I have to say that Government rather than having a lack of direction, know specifically where they want to go in relation to e-business and technology and I can only imagine that the hon Members have not had sight of the strategy when they made those statements, because I cannot believe that they would have reached that conclusion. Having said that the hon Member heard the Hon Dr Linares speak about Education and Health for one and a half hours and then said that the Government have no idea what to do with Education and Health. I think any listener having heard the Hon Dr Linares speech on Education and Health could not possibly have reached that conclusion, having heard the brilliant and extensive exposé on the measures being taken on matters of Education and Health. So I expect that he was repeating matters parrot fashion from a pre-prepared speech, as indeed will be the treatment of the Opposition spokesman for Trade and Industry, he will do the same this year without regard to anything that I am saying but even though my speech will fall on his deaf ears, I expect that at least the listeners at home will want to hear what the Government's policy is in relation to issues of Communication and Technology. As I say the Government did launch their strategy on e-business and what I would intend to do is describe it because clearly there seems to be a line being put out by the Opposition, which is a fundamental misconception.

The Government did launch two weeks ago a strategy on e-business, which we think is going to encompass the next three years, 2001-2004. Some of the measures have already been taken and have been put in place. The basic philosophy is to facilitate the consolidation of e-business and telecommunications sectors by taking specific measures across a variety of fields, legislative, fiscal, administrative, financial, educational and promotional, and indeed, I listed these in the press conference I had to members of the media. I understand that when members of the media are trying to then summarise a long presentation insufficient space requires extensive summaries of what I said and therefore some of the matters which are brought to the attention of the public are not actually repeated or reprinted – I

think this is a good opportunity for me to go into that in great detail.

Mr Speaker, what I did say initially is that it is also important when the Government take a view on what strategy to follow and so on, that they do so in the context of a good and clear assessment of where the Government and where Gibraltar is in relation to any specific area. That is why we conducted a survey on e-business last year and that is why we are going to conduct another survey this year and we expect that for the next three years in this programme of constant assessment and reappraisal of this area, we will be conducting these surveys, so that we can constantly place a marker and understand how the progress of the strategy is going. The main areas that were highlighted last year, let me say, and the main threats or issues, were the issue of the high cost of bandwidth and training. Those are the two main issues that came through in the survey last year. Businesses thoughts had to be tackled if there was going to be significant progress. It is also interesting to note the statistics that there were on computer literacy and internet usage, and the fact that businesses generally thought that the internet could be a source of great activity for them. Indeed nearly 50 per cent of all businesses that responded said that up to 10 per cent of their customers already reached them through their website, which was a significant issue already last year. In any event, as I say, we will be conducting another survey this year to be able to reassess the strategy that we have launched in the context of the facts out there in the market and the strategy, let me say, is the work and the extensive work of a Think Tank that I set up last year of Government officials and private sector bodies. So if the Opposition rubbishes the strategy, as indeed was the headline in the Chronicle and the headline in an Offshore publication that picked up the Opposition's press release, they are rubbishing the work of the entire Think Tank, which includes the private sector entities that endorse and support the strategy.

Mr Speaker, just to give the hon Members a flavour of how the Government feel that the measures will be taken under all these Heads on legislation, marketing, education and support. There

are two sides to the legislation. One is the Regulatory legislation and the other is the Facilitating legislation. The Regulatory legislation was put in place quite recently. It was commenced on the 22<sup>nd</sup> March and this is the e-commerce Ordinance. That provides the framework against which commercial communications will be recognised and notwithstanding whatever the hon Members say about it, the reality is that we have already received very positive feedback from businesses out there, international businesses and interest internationally as a result of the fact that Gibraltar has a regulatory framework against which these communications will be recognised. They are able to say confidently "Gibraltar is a territory that has a law that will recognise the business that we do". Secondly, the Facilitating legislation is of course to a very large extent the liberalisation. The House has passed this legislation and it is just awaiting commencement as a result of subsidiary legislation that is to be put into place. That is now ready, it is prepared and we expect to put that in place very soon, as the Chief Minister pointed out this morning, and I believe that that is going to be a Facilitating legislation because it will deal with one of the two issues that was brought up last year, which businesses thought was a threat to the progress of the business, which is this concept of high cost of bandwidth. It is likely, I hope, that the liberalisation of Telecommunications and the emergence of greater competition into the market, will bring down the cost of bandwidth and will make available more leading technologies as the pressure mounts on existing or new operators. I am confident that that would be the case and certainly I will support that greatly, as indeed other businesses will support that. We will also take the legislative step of repealing the legislation that requires websites to be registered. I do not think that it is in keeping with a philosophy of liberalisation to require websites to be registered. There is no need for that now that there is very protective provisions vested in the Minister in the e-commerce Ordinance, which allow the removal of data and give the police greater powers in relation to all of that.

Mr Speaker, I also dealt in my presentation on the strategy about fiscal matters that we want to take into account and put into place.

The Government are committed, I said then and I repeat now, to facilitate the importation of specialist skills in the Information Technology field and indeed I said that we would take a very quick decision on issues relating to import duty and we have given our commitment today to put into place a window of opportunity for businesses in Gibraltar to rebound their computer infrastructure free of import duty for at least a period of one year, together with the added benefit of having a significant tax deduction as a result of doing so and I would urge companies in Gibraltar to take the opportunity so that there are clear moves, clear steps taken, to progress their capability to deal with new technologies. I also said that we would consider new schemes from time to time to encourage and facilitate inward investment in the review of tax generally.

Mr Speaker, of course, a specific aim within the Objective 2 Programme, and I made sure that we wrote in paragraphs when we submitted the single programming document to the European Commission for approval, was to make available funding for e-business projects. Those parameters have been approved by the European Commission and that funding is available and indeed I encourage again, as I did when I launched the strategy, I encouraged the private sector to come forward with applications for funding under those parameters as funding is indeed available and has been approved as such from the Commission for the use exclusively of e-business and Telecommunications projects. The Government also consider making direct Government funding available in other cases if they are outside the parameters of the EU Funding Programme but we think that those applications are of merit, we will do so under the Gibraltar Enterprise Scheme if indeed this should be the case.

Mr Speaker, training is a crucial issue in relation to e-business and the hon Member that last spoke, the Hon Mr Linares, quoted an answer that my Colleague Dr Linares had answered in respect of e-business training at schools. I think I made the point at the time in supplementaries, if my memory does not fail me, let me say that the Government's policy in e-business is not only as covered by the Education Department. It is clear that the

Education Department has a responsibility directly in relation to e-business and e-commerce projects as regards the schools, but it is the DTI who has the central responsibility to ensure that there are training projects at least in place, I said the central responsibility at least to co-ordinate and devise the fundamental strategy and who are the people we want to target in relation to e-business training outside schools. There are three target groups, there are people at school, there are post graduates, who may need to receive very specialist training to be able to seize opportunities in respect of e-commerce and then there is the existing workforce that needs to be repositioned in their skills to be able to deal with the new technologies. A good example of post graduates receiving specialist training is a project that the Government gave support to quite recently, one by GB Capital, the satellite launching company, that took on a number of Gibraltarians and wanted to train them in Princeton, New Jersey, these are local people and the Government supported the application, there was an EU Funding application, a significant one in excess of £200,000 and the Government supported that application because it was securing opportunities available for local returning graduates to work within an emerging sector. I think that it is important that the Government do support it, indeed it does, and our policy on training is targeted at those three distinct sectors, one of which my Colleague has responsibility for, but the overall strategy as it relates to business, the DTI will seek to co-ordinate. As I said two weeks ago, we will be launching a sub-strategy on education and training and skills within the course of the year and the hon Member will have the opportunity to scrutinise that more closely as the months go by.

Mr Speaker, our aspiration in the Think Tank, and we said so in the strategy as regards infrastructure, is that every home in Gibraltar should have access to high speed bandwidth at a reasonable cost. I think that is a laudable and reasonable aspiration, high speed bandwidth at a reasonable cost. We are not going to give every home in Gibraltar a computer, like some people outside this House have said. I do not think that is a reasonable aspiration, certainly not one that the Government share, certainly not one that can be costed. The person who

made that statement then was asked in that programme, "How are you going to cost that", and they said "We are going to abolish taxation in Gibraltar". This seems to me to compound the problem rather than solve it.

Mr Speaker, as I say, that is our fundamental aspiration. We are proceeding with the discussions with parties who have expressed an interest on a cable link from Gibraltar and we have to do so with parties that have expressed an interest. We cannot take the discussions quicker than those parties envisage and indeed that they are prepared to do so. Infrastructure, as I said at the time that I launched the strategy, is of two types, it is of the digital type and indeed it is also of the physical type. What I meant by that was that I am conscious that not only is good infrastructure necessary so that people can set up businesses centred around the new technologies of the digital type. It is not only businesses of the transfer of digital music, it is a transfer of physical goods and it is necessary to have good infrastructure to deal with that, so we are conscious in our discussions with the Think Tank that it is important to have a good infrastructure for things like Transit Sheds and Warehouses in case there should be businesses in Gibraltar that should want to diversify into the delivery of throughput of goods from Gibraltar. It is also important in that context of physical infrastructure to have a good Post Office and a good and efficient postal service to complement the business and commercial world. The Post Office has to become aware and keenly supportive and indeed the partner of the commercial world in these projects and the Government are conscious and keen that that should be the case and that that will be delivered as a result of the postal review.

I also said at the time that there needs to be vigorous promotion and marketing of Gibraltar as a centre and we are going to take further steps this year towards that. We already increased recruitment in the Ministry of a person who is dedicated to the e-business, to the Communications and Technology world to develop those fields. He complements the old people from the Regulatory Authority, that although they are independent of Government, do assist in some specialist fields sometimes. It is

also important that Government introduce a greater e-thinking culture, not only into Gibraltar generally by increasing awareness, but that Government should lead by example and I launched what I call a g-business on-line initiative, which basically is an attempt to put as much of the Government's business with computers on-line as possible and we will try to co-ordinate that work with other departments. We have already spoken to them. We have done an internal survey of Government's current capability and we hope to enhance that and put as much of the Government's business on-line as possible not only so that Government can lead by example and jumps into the 21<sup>st</sup> century and seizes these new skills, but also so that the consumer becomes aware of the opportunities and benefits of the internet and internet usage, and so that it encourages in turn greater usage by the community and greater awareness by the private sector to also foster greater commercial opportunities in this field.

Mr Speaker, to complement all of that the Government are creating a permanent Planning Committee with the private sector, which will replace the Think Tank. I would like personally and I have said this to several players in the field, in the same way as Government have regular meetings with the Federation of Small Businesses and the Chamber of Commerce with the Finance Centre Council, all groups representative of certain sectors of industry and commerce, there is no group, no entity, no organisation in Gibraltar that is representative of the Communications and Technology field. This can be dealt with in two ways, either I set up an advisory group and I can meet them regularly, which I am happy to do, or the industry forms itself into an information society. I would encourage that but if the industry does not do that, I will certainly form a group of people so that we can continue having a direct access to players in the industry so that we can obtain advise as to the future progress of strategy and future Government policy. Certainly from this opportunity, I would like to encourage the private sector to form themselves into an information society as the best conduit of information and discussion with the Government. Mr Speaker, all of those are significant measures and I know the Opposition has said that they are not and that it is just regurgitation of the same thing but we

are all getting a bit tired of hearing that. Anyway I think that any listener who has heard the extensive strategy that Government have, will be satisfied that Government are seized of this opportunity and consciously seized of the fact that we need to take strides in this field and we will do so.

There are issues that need to be dealt with also in relation to, not only to our international initiative relevant to the Finance Centre, but also relevant to the field of Telecommunications and Technology and the two main issues that are important in the field of Communications and Technology as regards international initiatives, is firstly the discussions that are on-going on the possible change to the VAT directive as regards the European Union and the impact that may have on Gibraltar even though we are excluded from VAT, if there is a redefinition of the point of taxation on VAT, it will impact on Gibraltar. If the focus on the point of taxation is the location of the recipient, it will certainly do so in relation to businesses that may want to set up in Gibraltar as a VAT free zone to transmit digital music into the European Union. Clearly that competitive advantage, which businesses will have today may be lost if there is a change in the VAT directive, but we will monitor the situation. There is some opposition within the European Union and it is by no means a foregone conclusion, but it is an important matter for us to monitor. The second one is the OECD work on how businesses will be judged internationally on corporate taxation, on the imposition of corporate taxation on e-business. Again, there has been an extensive consultative document issued by the OECD and there is work expected on a model convention on that and, as I say, it is a complex and extensive document. There is discussion about what constitutes a permanent establishment for the purposes of e-business. It is a very important factor and we will monitor that work because it is important and will impact certainly on whatever jurisdiction that wants to take measures in relation to e-business. The last point I will mention in relation to Communications and Technology before I move on, is that last year we signed a Memorandum of Understanding with an Anglo-Israeli concern that hoped to set up a complex web posting business through Gibraltar. It is a 78 million dollar investment. It is a significant one. It will create more

than 100 jobs, certainly more than 100 jobs when the business is being constructed and set up and a significant number of jobs when the data centre is set up. Demolition has already occurred and we expect that construction will commence soon. I hope that that is the case and the planning application is being considered as we speak and the Government are eager to attract businesses of that type to Gibraltar because it does represent an important opportunity for further diversification of the economy.

Mr Speaker, the Chief Minister this morning went through the international challenges which the Government face on the Finance Centre and I do not intend to go through these except in a rather cursory way because they have been extensively dealt with this morning. I will say that the international challenges are separated into various areas, regulation, tax, transparency and exchange of information. The Government and indeed the Finance Centre operators have worked closely to deal with the regulatory challenges that Government have faced over the last 12 months. Since my last budget speech we have attended the FATF Assessment in Paris of the non co-operative and co-operative jurisdictions. The Government invested a lot of time and resources on that exercise. Sixteen territories were listed as uncooperative and faced great difficulties, not only in terms of publicity, but in trying to salvage their reputation and business opportunities throughout the last 12 months. Gibraltar after extensive submissions was graded as co-operative and the regulatory stance that we applied were endorsed by the FAFT and I think that was a valuable and useful endorsement of Gibraltar's standards. Indeed that was followed in September by the United States IRS approving the jurisdiction application that Gibraltar had made for approval of its customer rules in the context of the new US withholding tax rules that came into operation on 1<sup>st</sup> January 2001, we were in the first batch of 20 countries to have those rules approved and significantly we were the smallest territory to have those rules approved in that leading batch. Many countries suffered difficulties and in our visits throughout the jurisdictions this year, Gibraltar has been praised by operators and they have told us, several leading banks and



other institutions have told us, of the difficulty that was encountered by those institutions in countries and territories that did not have those rules approved by the IRS. Let me say that it is not the Government of Gibraltar saying that our regulatory standards have been endorsed. This is the internal revenue service, the IRS of the United States Government, that at least I think it is safe to say, does not have an international reputation for being lax about standards.

We have also worked quite closely with the FATF in relation to a neutral evaluation of banking and with the IMF who have taken on the baton left of the FSF in relation to further assessments of jurisdictions that are envisaged internationally. I would say that compliance with international regulatory standards is important in a globalised market, I always make that point. I think the regulatory initiative will create two types of Finance Centres, those that can and will comply with those leading international regulatory standards and those that are either as a result of lack of political, human or technical resources, will not comply and those territories will find it increasingly difficult to compete in a highly globalised and energised market. On fiscal issues, the Chief Minister has already mentioned what is our position in relation to the OECD and the EU on exchange of information and tax matters and our general policy that we must protect our fiscal sovereignty and that there must be global standards and that means global compliance and global enforcement. I do not intend to go into that. We have issued an extensive consultative document on that issue and we have been liaising very closely with the Finance Centre Council who are supportive of Government broadly on these issues and we expect to consult them further should that be necessary. As the Chief Minister pointed out this morning, we are expecting developments as a result of the United States position because at the back of our minds what we must realise ultimately is that the OECD process is as much a political process as it is a fiscal process. It is constantly responding to international developments of a significant nature and the election of a new administration in the United States is certainly a significant one.

Mr Speaker, we will continue with our vigorous marketing and promotion efforts of Gibraltar in consonance with the key markets that we identified and I said to the hon Members that we conducted a Finance Centre survey last year. We expect to make the results public soon once these are fully analysed, but the essential marketing drive will be in consonance with the market identified by the Finance Centre survey, and broadly speaking these could be separated into four groups. First, the leading markets of the United Kingdom and Spain. The second group would be Portugal and Switzerland and then the third group would be Germany, Italy and Israel, which has come through in the Finance Centre survey as an interesting and important market. The fourth group, what we call loosely the "others group", which does not require specific targeting, but in the context of markets those are countries that people are responding to the Finance Centre survey saying that is where we derive our business from. It is important that the Government not only focus on the UK as it has traditionally, but also diversifies their marketing efforts into the other countries so that we can expand, given that there are already opportunities out there, we should seize these and try to progress this further and that is precisely what we have done in relation to Portugal and Switzerland and the Finance Centre is envisaging a more targeted effort in relation to the other three countries in forthcoming years. Mr Speaker, the picture for the Finance Centre, for the economy as a whole is strong and all the indicators point to that. It is clear that if one looks at the figures there are increases for the last five years and I think it points to the significant growth in the fundamental base of the Finance Centre and the work that people have. I can only say to the hon Member that not only do we have the views of the Chamber of Commerce expressed in that report or the basic statistics in place but just by talking to people in the Finance Centre there is consensus that the Finance Centre has grown and is in a very strong position as we speak.

Several entities have set up business in Gibraltar in the last 12 months and new licenses have been granted. The only one I would highlight because of the significance of the brand name, is the arrival in Gibraltar, and I think it was a coup for the

Government to do so six months ago, of ACE Insurance which are a 30 billion dollar valued operation listed on the New York Stock Exchange that hope to run three different entities and structures through Gibraltar and hope to also run e-business type insurance services in Gibraltar. That has been a significant arrival in Gibraltar. It was greeted internationally with great interest because people know the brand name and it is an endorsement as the Chief Executive of ACE said at the time, the reason for coming to Gibraltar was because of high regulatory standards and co-operation and support that they had received from the Government and the international reputation that Gibraltar has at present. I think that is a valuable endorsement by an independent source that comes to Gibraltar and it has attracted interest internationally. We expect also to develop products as we have over the last few years and the important product, we hope that there is a breakthrough in investment services passporting but it is contingent on several issues. There are a number of insurers in Gibraltar that have taken up that opportunity, they are listed on the FSC website and on banking. Two banks in Gibraltar are already passporting services through Gibraltar, one, interestingly to the Spanish market. The main product that the House will see legislation on in the next few months is protected cell legislation and that is legislation, which primarily will be used for captive insurance and we expect to table that in the House soon. There are several jurisdictions around the world that have legislation of that type and we hope that it is the aspiration of the Finance Centre Council and the Government, that it will complement the efforts especially with the insurance or as its holding parts of the Finance Centre to attract new business to Gibraltar.

Mr Speaker, if I can turn now to my last area of responsibility, which is Heritage and Planning, I was delighted to hear that the Opposition Member supports the Government's moves to protect heritage and culture and the environment in Gibraltar. I was delighted to have the support of the party that destroyed the North Dockyard Gate and the party that destroyed part of the Moorish Castle wall. Anyway converts at any stage are welcome and I embrace the recent converts.

In Heritage and Planning there have been several measures that I will bring to the attention of the House. The first is that we have consolidated the human resources of the department and entities and private companies that were wholly funded by the Government, as is the case with the museum, into a new structure, a new Heritage and Planning division, which really brings together the human resources which were strung about in a more cohesive way and it does support me in a much better way to be able to respond to the Government's policy on Heritage and Planning. One of the significant issues that I would bring to the House's attention is the commencement of the new planning regime quite recently and of course there is a need now to provide public information as to the new planning regime and we intend to do so by producing a booklet on the process and the possibility of appeals which will be handed to each applicant when they submit an application for planning. That is a significant development in Gibraltar's planning history, given that it is the first time that we now have specific public participation provisions in the legislation which will allow people to voice their views in matters of controversy and so on.

We will continue with our funding in the areas of conferences, research and excavation and culture, because investment and culture and investment in knowledge is important, because as the hon Member said, investment in our heritage is investment in our identity and protecting our identity protects fundamentally who we are, which is ultimately politically relevant. I think it is very important for the Government to not only realise the economic link with areas such as tourism, but indeed the political link that is important in protecting our identity.

The Calpe 2001 conference this year will focus on the area of Neanderthals, the reason for that is we had a very successful conference three years ago, indeed it was so successful that there were international film crews that came for that conference, as indeed is the case now. We have received requests from three international crews that want to come to video some of the conference and do special programmes on the conference and the excavations that will be on-going simultaneously. It led to the

prestigious Oxford publisher publishing the extracts of the conference. This is a good international conference. It is a prestigious one. Gibraltar is seen as a focus of international research and culture and that is important generally because it brings us the spin off benefits of international recognition, tourism and awareness of Gibraltar, which is a politically relevant factor.

The Calpe 2002 conference, I hope, Mr Speaker, and we are still planning this, so I cannot give guarantees on this, but I would hope to have an event centred around the cultural, historical and social links between Gibraltar and Malta. I hope that that will indeed take place. There are discussions with officials from the Government of Malta as to that project and I hope it progresses in the course of the next few months so that we can have an event in Gibraltar.

Mr Speaker, our campaign of awareness in the matters of heritage will be stepped up. It is especially relevant in relation to our proposed bid for world heritage status. That is still on the cards, that will be programmed and agreed in the next few years. We have until the year 2008 to put forward our application. We need to decide when it is appropriate to do so in the context of new rules that have been coming out in the world heritage committee only last December at the recent meeting that they held in Australia. We need to review that and take a decision and move forward but we certainly clearly expect to be in a position to put forward our application in forthcoming years.

Mr Speaker, there are specific projects of an infrastructural point that I would mention. Not only is research and awareness and investment in culture important, but it is also important to invest in the physical and urban access that Gibraltar has and so the Government have supported a project on the World War II tunnels as a phase one. We hope to be able to direct further EU funding programmes in future towards an extension of that because it will be a valuable addition to the Gibraltar product, the tourism and heritage product. We conducted and I have just received a draft of the report on the feasibility of recovering the Moorish Castle as an asset of Gibraltar's heritage and I personally would like to do

that as soon as possible. I am conscious of the difficulties of doing that because of the other needs that Gibraltar has and the other priorities that Government have to have on funding, but I hope that the Moorish Castle will one day become a true jewel in our heritage crown, which will be added to the rest of our fortifications.

On Rosia Bay we will see movement and development in the next few months and I hope to make announcements soon in relation to Rosia Bay. I hope and expect that the Town Range refurbishment project will get off the ground now that the planning formalities have been finalised but the project to revitalise what is considered by the Government in their assessment and inventory, the inventory that the museum conducted of Gibraltar's heritage considered Town Range to be the fourth most important street in Gibraltar's heritage and I hope that that project will get off the ground soon, so that we can see a significant refurbishment of that important street.

Mr Speaker, we will also be issuing new shop front guidelines and we will be extending the tax concessions regime for the beautification and enhancement of properties to other areas in Gibraltar that have been extremely successful, it has seen a lot of take up and we will, during the course of this financial year, extend it to other areas. I hope to make an announcement soon. The entire philosophy that underlines the Government's strategy will of course be contained in the Heritage Charter, that is the manifesto commitment of the Government to put into place and we are working on the basic principles to be included in that Charter and I expect to make progress during the course of this financial year on the drafting of that document so that we can eventually publish the target aims and philosophy of the Government in relation to heritage.

Mr Speaker, Gibraltar needs a new development plan. The current plan is out of date. It dates back to 1991 and it is always good to have a plan that the public are aware of that lists the short, medium and long term objectives of Government in relation to development generally. How the Government will view issues

such as application of change of use in the city centre from residential to commercial or vice versa. How we will proceed with urban city centre beautification, urban renewal, how we will zone Gibraltar, how we will classify areas into commercial, industrial or residential use, how we see the course of events panning out for reclamation. All those issues need to be in a development plan. The development plan needs to be updated. The last one was important and significant because it had important projects listed in it and the Government have put up to tender the contracting out of the professional services that need to be used to draft that development plan, to assist the Government in doing so. We hope that this process will be conducted during the next 12 to 15 months. I expect it will take that long because there needs to be close consultation and work with the Government and with stake holders, the general public. Once the plan is ready it will be discussed, it will be exhibited in accordance with the rules and the Town Planning Ordinance, the public will be given an opportunity in the exhibit to comment on that, those comments will be taken into account by the Commission, who will then present a further plan to the Government for approval and that will constitute Gibraltar's development plan and I think when we have that in place it will be a significant addition, not only for the public to be aware of where the Government are going, but so that it guides the Commission also in its work and it is a clear statement of philosophy of the Government in relation to heritage, urban planning and its economic link, which is crucial, not only for economic sustainability, but for the political issues of the assertion of our national identity. Mr Speaker, I commend all matters related to my department listed on the Appropriation Bill on my behalf.

#### ADJOURNMENT

The Hon the Chief Minister moved the adjournment of the House to Thursday 14<sup>th</sup> June 2001 at 9.30 am.

Question put. Agreed to.

The adjournment of the House was taken at 8.00 pm on Wednesday 13<sup>th</sup> June 2001.

#### THURSDAY 14<sup>th</sup> JUNE 2001

The House resumed at 9.35 am.

#### PRESENT:

Mr Speaker ..... (In the Chair)  
(The Hon Judge J E Alcantara CBE)

#### GOVERNMENT:

The Hon P R Caruana QC – Chief Minister  
The Hon K Azopardi – Minister for Trade, Industry and Telecommunications  
The Hon Dr B A Linares – Minister for Education, Training, Culture and Health  
The Hon J J Holliday – Minister for Tourism and Transport  
The Hon Lt-Col E M Britto OBE, ED – Minister for Public Services, the Environment, Sport and Youth  
The Hon J J Netto - Minister for Housing  
The Hon Mrs Y Del Agua - Minister for Social Affairs  
The Hon R Rhoda QC – Attorney General  
The Hon T J Bristow - Financial and Development Secretary

#### OPPOSITION:

The Hon J J Bossano – Leader of the Opposition  
The Hon Dr J J Garcia  
The Hon J L Baldachino  
The Hon Miss M I Montegriffo  
The Hon Dr R G Valarino  
The Hon J C Perez  
The Hon S E Linares

ABSENT:

The Hon H A Corby – Minister for Employment and Consumer Affairs

IN ATTENDANCE:

D J Reyes Esq, ED – Clerk of the House of Assembly

**Debate continued on the Appropriation (2001-2002) Ordinance 2001**

HON LT COL E M BRITTO:

Mr Speaker, as Minister for Public Services, the Environment, Sport and Youth, I will once again this year inform the House on all aspects of my Ministerial portfolio. This includes the Government departments of Electricity, Fire Brigade, the Post Office, Technical Services, Sport, the Environment and Youth, as well as the telecommunications joint ventures Gibtel and Gibraltar Nynex, the water production and distribution company Lyonnaise, Public Service Broadcasting, the Lottery and the Philatelic Bureau.

My contribution will necessarily be disjointed because of the obvious differences between the various areas I have mentioned, but in an attempt to structure it I will speak on each area separately and this year I will take Government departments first and the whole thing in alphabetical order.

Starting with the Electricity Department, the latest figures confirm that the increases in both sales and generation have occurred in previous years. Total generation now stands at one hundred and twenty-four point nine-nine million units (124.99M kWh), and this represents an increase of three per cent over the previous year. Sales have amounted to just over one hundred and eight million units and represent an increase of five per cent over the previous year.

During the past Financial Year, Lyonnaise des Eaux have issued bills for electricity consumption for a total of over £10 million. This is the first time that this magic figure has been exceeded since the last tariff review took place in 1984 and the Flexible Cost Adjustment surcharge has stood at 2.81p per unit for over 10 years, it is clear that such increases in revenue confirm that they are entirely due to increased sales.

There has been some delay in moving into the new Rosia Road Electricity Centre for a number of reasons but the main one was that consultations between management and staff revealed that a preference existed to delay the move until all the external works were completed, the premises fitted out and the equipment transferred. This is now almost finished and, in fact, some members of the Electricity Department are already working at Rosia Road and more are moving in on a gradual basis.

The SCADA equipment has finally been received and the overload and earth fault protection systems at Orange Bastion and Jumper's Bastion are now in the process of re-wiring and modification in order to be able to first of all bring the new electronic protection devices into service. This work has been completed at Orange Bastion and a start will shortly be made on the testing of the new devices prior to commissioning these. Once these tests are completed, work will continue on the installation of the remainder of the equipment.

Discussions with the Unions are on-going on the creation of an electricity authority that will deal exclusively with all matters related to electricity generation and supply, but these discussions with Management, Staff and Unions are confidential so I will say nothing more on this.

Last year, when I spoke for the first time on the environment after having taken responsibility for this portfolio after the general elections, I mentioned that the greatest challenge came from Brussels and the many and varied directives and regulations which it kept adopting on environmental matters. Today, Mr Speaker, I regret to say that I confirm that the position continues

the same. In response to these demands we have, over the last few months, brought to this House the Pollution Prevention and Control Ordinance, the Environmental Protection (Disposal of Dangerous Substances) Ordinance and an amendment to the Public Health Ordinance on the control of major accident hazards involving dangerous substances. All these pieces of legislation transpose into our national laws the requirements of European Council directives.

The Ministry for the Environment, together with the Environmental Agency, is at present also assessing the impact on Gibraltar of a number of other directives and proposals. These include new provisions in respect of genetically modified organisms; waste incineration; water management; environmental impact assessment; ambient air quality; end of life vehicles; waste electrical and electronic equipment; public access to environmental information; public participation in respect of plans and programmes relating to the environment; climate change and greenhouse gas emissions. As can be seen, the list is long and varied and requires careful consideration to assess its effects on Gibraltar's technical requirements and demands for resources.

As a result of the repairs to HMS Tireless, the Environmental Agency, on instructions from the Government, engaged consultants to advise on a suitable radiological monitoring assessment programme so we could independently verify whether there were any adverse radiological effects to our environment as a result of the submarine's presence. The programme started in August last year and was not finalised until the submarine had departed, all radioactive waste had been removed from Gibraltar, additional facilities associated with the repair works had been dismantled and the mole had reverted to its former state. The monitoring programme has consisted of regular weekly analysis of our sea water and desalinated water supplies, soil sampling, permanent sampling of airborne particulates and daily monitoring of direct external gamma dose rates from fixed sites. I am pleased to say that assessment of all these samples during these many months has shown that there is no evidence of any impact on the environmental radiological

conditions existing in Gibraltar during that period. The Government however feel that there should be a permanent ongoing monitoring programme of radiological conditions in our environment, - something which has never been done in the past. Government have already commissioned a report making recommendations for such a programme and will, during the course of this coming Financial Year, set up a proper, permanent radiological monitoring programme.

Mr Speaker, food imports is another of the subjects which comes under the umbrella of the "environment". During the year there have been acute scares in Britain and elsewhere in Europe in connection with BSE and Foot and Mouth Disease. This has led to implementation of additional preventative measures, inspections and certification requirements on the slaughter, movement and import of meat, meat products, milk and milk products throughout Europe. In Gibraltar, where we already have an excellent food import inspection service, control and inspection procedures have been strengthened in order to protect our community in the case of BSE and reduce the risk of spread of Foot and Mouth to neighbouring countries.

We are continuing with our very comprehensive cleaning programme that covers many and varied areas. This continues to be closely monitored in order to ensure that high levels are maintained and, where possible, improved further. There is a very good working relationship with both the cleaning companies concerned, Master Service and Industrial Cleaners, and it is proper to say that they respond immediately to any situation that may require particular attention at any given moment.

We shall also be continuing with our programme of improvements, maintenance and upkeep of planted areas. More areas have been embellished this year and we shall continue in our efforts to further beautify our town.

I am pleased to say that there is evidence of some small decrease in the acts of vandalism specifically on planted areas. However, some are unfortunately still occurring. I therefore renew

the call that I made last year on the vast majority of our law-abiding fellow citizens to assist the Government in our efforts to beautify our town by denouncing any such act of vandalism that they may witness.

Mr. Speaker, I would like to end this section of my speech by renewing my thanks and appreciation to the many individuals and groups that have given invaluable help and advice on the many and varied issues which encompass the area of environment in my Ministry.

Mr Speaker, as from May this year, the City Fire Brigade has achieved a major step forward in its recruit training and now all successful candidates entering the Brigade are required to attend at the Fire Service College in UK, an 11 week course which is to Home Office specifications for UK Fire Brigades. This is a welcome development which will result in all new entrants into the Brigade achieving a higher standard of training at the start of their service.

Training continues to be a priority for the Fire Brigade as a whole and the new Chief Fire Officer and his Senior Management team have recently introduced a new local training programme. A large number of Brigade officers have also attended overseas courses in the UK ranging from Command and Control modules like the Watch Commanders Course and Junior Officer Advancement Course to Fire Safety and Specialised Courses such as accreditation in Rope Rescue Instruction Techniques and Road Traffic Accident Procedures. Most of these courses were at the Fire Services College at Moreton and all officers who attended attained excellent results.

The Brigade has recently received a new vehicle which encompasses a hydraulic ladder mounted on a Mercedes Benz chassis. This appliance is the pride of the Brigade's vehicle fleet. They are now able to carry out rescues in areas, which before were inaccessible. This is a valuable asset especially due to the high rise buildings which are evident in most of the new estates. A further asset, which was acquired recently, was an all-purpose

utility van, which is the main source of logistic resource within the department. This appliance has the sole role of ferrying heavy-duty equipment to and from operational incidents and also of the deployment of personnel in a major incident.

The station entrance has been renewed and three new appliance bay doors have been installed. These doors had been in service for over 35 years. The new appliance doors offer better security and are in line with the latest requirements.

The Brigade's offices inclusive of all the administration section have been refurbished at a very low cost to the taxpayer because this has been done internally on a self help basis both by the MT Section and by the operational watches.

Two years ago the Brigade's Fire Safety Department started delivering presentations on Basic Fire Safety and Good Housekeeping to private sector commercial entities, such as Shipping Companies, Financial Institutions, Insurance Firms et cetera. The demand for such presentations continues to increase and is proving to be quite a commitment on the Brigade's resources.

On the operational side the Brigade responded to 1650 Emergency calls and mobilised the Ambulance Service on 3200 occasions. The Fire Safety Department carried out a total of 1360 inspections.

In addition, the City Fire Brigade provides a backup emergency ambulance cover and full mobilisation for the St. John Ambulance Service.

Mr Speaker, moving on to the Post Office, in early February of this year, the Parcel Post Section moved from Landport Ditch to Grand Battery Casemates. The staff are now working in a much better environment and able to provide an improved service to the public. The temporary transfer of the administration and counter

sections to the ex-Health Centre Building took place in June last year and these sections are expected to return to the Main Street premises once refurbishment is complete later this year.

A new self-adhesive stamp will be issued during the course of the year which will carry the letter 'G' instead of a face value and is intended to be used only for local postage.

The review being carried out by the Consultancy Service of the British Post Office continues on the basis of expanded terms of reference specified by the Government. The final report covers all aspects of the work of the Post Office and will include recommendations on the way forward which the Government hope to implement in consultation and with the co-operation of all stake holders.

However, as was pointed out by the Chief Minister yesterday, the Government are determined that the various problems affecting the Post Office, which result in unpredictable and unnecessary delays to the delivery of mail, will be resolved so that the Post Office will in future provide efficient level of service that the public and the commercial sector are entitled to expect.

Mr Speaker, looking briefly at the Lottery, I record that no great significant changes have taken place as regards the administration and running of the Gibraltar Government Lottery in the last Financial Year. The Treasury Department continues to monitor sales and also returns of unsold lottery tickets, the average of which currently stands at 33 per cent.

Notwithstanding considerable competition from the United Kingdom and Spanish lotteries, Gibraltar is still the second highest per capita sales country in the whole of Europe.

During the current Financial Year, the lottery is projecting an excess of expenditure over income of between £12,000 and £13,000, or to put it in other words, it made a loss of this amount. The forecast outturn figure given in Appendix F of the copy of the

Estimates which hon Members have in their possession, shows this figure as £113,000, which represents the original projection by the Treasury at the time the Estimates were drawn up. This difference will be corrected at the Committee Stage to bring it in line with the figures that I have first mentioned. In effect, because of the relatively high level of returned unsold tickets, the Government are, in effect, playing the lottery themselves to the extent of the tickets that are returned, and this year the Government have simply not been as lucky in winning prizes on returned tickets as in the past.

The main losses are in respect of the Extraordinary Draws. For example, in the last Christmas Draw, the first three major prizes totalled £600,000. Because none of these major prizes were included in the unsold returned tickets, the original estimated profit for this Draw of £200,000 became instead an actual loss of £100,000. This year's loss must also be put into the perspective of the performance of the lottery as a whole. For example, since the commencement of the fortnightly Draw in March 1993 and including this year's loss, the lottery has earned accumulated surpluses of over £3.5 million producing an average annual surplus of about £475,000.

However, Mr Speaker, I have to say that the Government are not happy with this level of risk and will shortly be inviting any interested parties to submit ideas and proposals on possible changes in order to enable the Government to explore all the options available. The contract with the current administrators of the draws and agents for the Government in the distribution and sale of tickets, expires in November 2003. No significant changes in the structure of the Lottery is expected before that date.

Due to proposed development works in the area of John Mackintosh Square, it has been decided that the Lottery Draws will be moved to the studios of GBC. The first draw in this venue is scheduled to be the Extraordinary Christmas Draw in December this year.



Moving on to the Sports Department, I report that this department has during the Financial Year under review continued to build on the work it has carried out in the previous year in the provisions and management of:-

- (1) Sports facilities, including the community use of schools scheme;
- (2) Technical support, assistance and advice to the schools and sports associations;
- (3) Training, support and sports schemes, through the Sports Development Unit;
- (4) Financial Assistance, through the Gibraltar Sports Advisory Council.

Sports facilities available were increased with the opening of the new sports hall at St. Anne's School, which was added to the Community User Scheme. The construction of the new hockey pitches at the Victoria Stadium is now complete and the first match, a full international match between Gibraltar and Morocco, in fact two matches, were played earlier this week, and I take this opportunity to congratulate the Gibraltar team on two magnificent wins. In the first the full squad scored 7-1 and in the second one by the under 21 squad against a full Moroccan squad by a score of 10-0. Mr Speaker, I think it is relevant to point out that Morocco does participate in hockey at a relatively high level and what this shows is the high level of Gibraltar hockey as opposed to anything else. It is fair to say that a number of the under 21 players actually play for the full squad. Unfortunately, due to delays beyond Government's control, the start of the demolition works at Victoria Stadium had to be postponed. This effectively has caused a delay in the start dates of subsequent phases of the Victoria Stadium extension project. I am glad to say that these problems have now been resolved and the demolition will start shortly. The new Skate Park and rink at Coaling Island is also about to be inaugurated.

Support, assistance and advice has been provided to the schools and the sports associations in the provision of facilities and equipment and in the organisation of events. Because of events organised to celebrate the new millennium, last year has been particularly busy in respect of the number of International competitions organised in Gibraltar. These were the European Youth Darts Championships, the Under 15's European 'B' Division Cricket Championships, the Basketball Cadets FIBA Promotion Cup, the Straits Games and the World Club Shore Fishing Championships, which culminated with club teams from Gibraltar winning gold and bronze medals.

The Sports Development Unit successfully expanded the Summer Sports Programme last summer to include a wider variety of leisure and educational activities and I am glad to say that the plans that I have seen for this year's programme show a further increase in this summer sports programme, which is proving to be such an excellent initiative and so popular with both children themselves taking part and also the parents. After having achieved the accreditation for six local tutors to deliver National Coaching Foundation courses, an increased number of such courses together with other generic coaching courses from the British Sports Trust, SAQ International and the Youth Sports Trust have been run for local coaches. Assistance and support has also been provided to sports associations in the organisation of accredited sports specific coaching qualifications in football, rugby union, squash, badminton, netball, volleyball, athletics, swimming, rowing, sailing, table tennis and gymnastics. The tutors delivering these courses have included separate school in-service training days ensuring that many teachers and coaches have been able to achieve some level of accredited qualifications which will assist in the development of sport in Gibraltar. At this moment I would refer back to the comments by my Friend and Colleague the Hon Dr Linares on precisely this point the co-operation between the Education and Sports Department in the area of sports development, which is proving to be working extremely well towards the benefit of both departments and I thank my Colleague and also the Education Department for their continuing co-operation and help in this respect.

I now turn to the Gibraltar Sports Advisory Council, which as well as its various sub-committees, continue to meet regularly. On the advice of the Council, financial assistance has been provided to sports associations through the three main funds available.

The Government provided a grant of £77,000 to enable participation by a large number of teams from 20 different sports to compete internationally and locally at different levels. In particular, the achievement of the Gibraltar Cricket Association in winning the European 'B' Group Championships and the Gibraltar Hockey Association in gaining second place in the Mediterranean Nations Cup need to be highlighted, amongst the many other good performances.

The Sports Development fund of £56,000 has, together with the involvement of the Sports Development Unit and the efforts of the sports associations, enabled a larger number than ever before of sports specific coaching courses to be held here in Gibraltar and through the I & D Fund the amount of £100,000 enabled provision of specific assistance to associations in running their own sports facilities, as well as the purchase of essential safety equipment and the refurbishment of existing facilities.

In this coming financial year, as hon Members will have seen from the documentation before them, funding for sport will once again be increased and the main aim will be to progress with the next phases of the Victoria Stadium extension project. In this respect the demolition is expected to be completed before the end of the year and shortly afterwards the construction of the new spectator stands and changing rooms will commence. It is also programmed for work on the new sports hall to start during this coming period. A large amount of infrastructural works in preparation for the subsequent phases of the project are also scheduled. In the interim, cabin-style movable changing rooms and dismountable spectator stands are being provided. These will be valuable assets to the Sports Department in the future.

Gibraltar sports will continue to participate this year in many official international competitions including the 2001 Island

Games in the Isle of Man where we will see a very large Gibraltar contingent. In September/October 2001, the Gibraltar Hockey Association will be hosting in Gibraltar the Mediterranean Nations Cup, with approximately 10 full national sides competing. Government, on the advice of the Gibraltar Sports Advisory Council, will be providing financial assistance to enable our sports men and women to represent Gibraltar internationally and the increased sum of £95,000 will be provided.

The Sports Development Fund will be increased to £65,000 and will continue to be available to assist sports associations with the provision of accredited sports specific coaching courses and with participation in internationally recognised training opportunities that will support the development of sport in Gibraltar. It is expected that the number of sports associations organising such courses and events will continue to increase and that the level of the coaching courses will be progressive leading to highly qualified coaches who will mentor up and coming coaches leading to the continuing raising of standards in sport across the board. The Sports Development Unit will continue to supplement coaching strategies with generic courses and qualifications and with sports development schemes such as the Summer Sports programme, which this year is scheduled to expand even further to cater for further age groups and positive leisure time activities.

Sports facilities available for use will be greatly enhanced with the opening of the new hockey facilities, enabling the use of existing pitches to be released for much needed football allocations. It is also expected that on completion of the new sports halls being constructed by the Department of Education at South Barracks, these will also be included in the Community Use of Schools schemes and offer much needed additional facilities.

The demands on the Sports Department are increasing continuously and Government intend to review the staffing levels in order to ensure that the quality of service is maintained.

It is Government policy, in recognition of the valuable contribution sports makes to Gibraltar's quality of life, to continue improving

facilities and supporting sports associations in their efforts. Government wish to thank very specially the large number of volunteers in the sports associations and clubs whose continued efforts ensure that sport thrives and develops in Gibraltar, for the enjoyment and benefit of all Gibraltar.

Moving now, to the Technical Services Department, I report that this department has undertaken a total of 33 major civil engineering or building projects during the past financial year with some such projects having already been completed and other scheduled for completion during the coming financial year. Such projects have included the reconstruction of the road at the base of the cliff face following the cliff's stabilisation works at Camp Bay; repairs to the Moorish retaining wall at Road to the Lines; matting and seeding of the newly exposed sand slopes following the completion of the removal of the sheeting of the Eastside Water Catchments. The results of the seeding process are extremely successful and are plain for all to see. The remaining 70 per cent of the area which is still unfinished, is scheduled for completion during the current year.

The completion of the Casemates project works, which has included the refurbishment of the ground floor of the old Health Centre Building as well as further enhanced refurbishment of areas within Casemates Barrack Block to create a new Shopping Arcade together with the preliminary works to accommodate the new Museum.

Continuing works on the city centre beautification, which have included the now complete sections of Irish Town as well as the complete refurbishment of the public steps leading from Fish Market to Line Wall Road and works undertaken on improvement to Fish Market Road bridge.

The conversion of an existing building on Grand Battery, previously used as part of the Casemates Moroccan Workers Hostel for use as the new Parcel Post Stores, and finally in this

section, the construction of a terrace extension to a Government housing flat for use by a physically impaired person.

This department also acted as design and project managers on a number of projects controlled by other Government departments. These projects are too numerous to mention individually, but have included the following:

1. The Skate Park at Coaling Island.
2. The new Police /Customs Marine Section building at Coaling Island.
3. The Evacuation Memorial at North Mole Road.
4. Refurbishment of the London GIB office.
5. Refurbishment works at Doctor Giraldi's Home.
6. Demolition of structures on the Detached Mole.

The following projects are still on-going and are being managed by this department on behalf of other Government departments:

1. Construction of the water-based Hockey Pitch at Victoria Stadium.
2. Construction of the new Industrial Park at Lathbury Barracks.
3. Frontier refurbishment.
4. North Mole Industrial Park.
5. Refurbishment works at 6 Convent Place.
6. Extension to the Motor Vehicle Test Centre.

7. The erection of the new frangible fence and drainage culverts at Victoria Stadium.
8. Repair of balconies and refurbishment at Anderson House.

This department includes the Information Technology Services Unit on which I report separately because of the nature of the work involved.

In pursuance of the Government's information technology policy during the course of the last year, Government have continued with their programme of networking and the following seven departments have been networked:

- Prison
- Fire Brigade
- Port
- Income Tax
- Employment Service
- Personnel
- Motor Vehicle Licensing

Work is currently progressing in networking the Post Office, No. 6 Convent Place, the Police and the new Motor Vehicle Test Centre at Eastern Beach.

In addition to the networking of individual departments, a Government wide intranet is being set up with the following departments having already been included:

- IT Unit
- Income Tax
- Social Services
- Motor Vehicle Licensing
- Technical Services
- Attorney General's Chambers
- Civil Status and Registration Office

Dedicated software applications have been developed and installed during the last year in a number of departments. These have included: A Unified Collection System for the collection of Income Tax and Social Insurance contributions which will now be undertaken centrally at the Income Tax office. A new system for Income Tax to replace the existing labour intensive and time consuming system. A system for the administration of all port functions including berthing, ship arrivals and departures and reporting of such activities. Part of this system has the facility to link up with a centralised database at Lloyds in London. A system for Tourism consisting of electronic cash point sales at various sites.

The following systems are currently being developed or are in the design stage and include:

- A common File Management System for all departments.

- A system for the management of Social Service benefits.

- A system for the production and administration of vehicle driving licences and log books.

- Further enhancements to the newly installed Income Tax system.

Finally I report that in April last year, the IT Services Unit moved out of Joshua Hassan House and into newly refurbished offices in Library Street.

Turning to the Youth Service, where the last financial year brought some major changes to the administration of the Gibraltar Youth Service.

After many years of being linked to the Ministry of Education, responsibility and financial control of the Youth Service was transferred to my Ministry and I am happy to report that contrary to some criticism that came from other quarters, this move has

not caused any disruption to the service, which continues to be provided to our young people.

The other major change was caused by the retirement of Mr Robert Balban, after more than 30 years devoted to youth work. Mr Balban was a true servant and leader for local young people and the Youth Service has lost a very real asset. His commitment, dedication and expertise contributed positively to the quality of life of Gibraltar's young people and I pay personal tribute to him, to his efforts and I think we will miss him in the future for the work that he did in the past and I am pleased to hear that he does not disassociate himself completely from the Youth Service but is seen behind the scenes helping out now and then. Mr Jaime Felice has now been promoted to Senior Youth Officer and I am sure that his services will also prove to be valuable to the continued improvements of the Youth Service in Gibraltar in the years in which he serves in this post.

Mr Speaker, the main aim of youth work is the empowerment of young people. In this context the Youth Service continued to provide as in previous years, a recreational and leisure programme and educational facilities to help our youth gain in confidence, acquire skills and awareness, in order to improve their quality of life and enhance their future contribution to our society and in this financial year, Government intend to carry out works to improve Youth Club facilities which provide the necessary meeting places for young people to engage in meaningful activities, with adequate guidance and support. Opposition Members will have seen that the figure of £100,000 has been provided for these purposes. I will deal with that in more detail in a moment when I refer to some comments made by the Opposition Member on Youth Affairs.

Funding will again be available to support the variety of events organised by the Youth Service with discos, live concerts, rock bands and variety shows involving more young people as organisers and contributors as well as consumers. There will also be trips abroad giving young people an opportunity to travel and

enjoy some independence away from home with friends and with the guidance of competent full time and part-time staff.

Young people are open to new ideas and initiatives which show concern for others and the world in which they live. This is reflected by their efforts to help local and international charities via bingo, sponsored events, collections, visiting the elderly and sick, taking part in trips to visit projects which cater for people with disabilities, and participating in local community events like the Three Kings Cavalcade, the local fair and national day. This year there have been two youth exchange programmes. One involved young people from Gibraltar and Aalborg, Denmark. This summer there will be a group from Dolphins Youth Club who, together with their peers from Mulross, nr. Magdeburg in Germany, will explore environmental issues as the topic of their youth exchange programme.

The Youth Service will continue to provide extensive support to the Duke of Edinburgh's Award Scheme and this Scheme has recently hosted an Open Gold Award expedition in Spain, involving members from five different countries in Europe.

The Award continues with its programme of events during this their 30<sup>th</sup> Anniversary Year and will be hosting a "Residential Project" for Gold Award holders in August this year. It will also host the 3<sup>rd</sup> Regional Conference for Europe, the Mediterranean and Arab States in September.

Financial assistance, through the grants system, will also be provided to other youth associated groups, such as the Guides and Scouts movements, whose contributions to the welfare of our youth is well organised and appreciated.

It is Government policy that the Youth Service be staffed with trained, qualified and committed Youth Officers and part-time workers, in order to continue to offer the best service possible, and a series of training programmes are being initiated.

Government will continue to support the Youth Service in its efforts. Youth work is a proven method of effectively empowering young people to be more self-sufficient and aware of the world in which they live. Government will continue to provide support for the benefit of our young people and the community of which they form part.

At this point, I will refer back to the comments made by the hon Member for Youth yesterday, specifically to his comment or his implied criticism that the Government were not providing adequate funding, to tell him that the Government have not only made no reductions in funding, but in the time that it has been in Government have created a new purpose built Youth Club in Laguna Estate in the order of £250,000, is this year devoting in the I&D Fund the sum of £100,000 to improve the other existing clubs and I ask him to delve in the history of his newly found colleagues in Opposition, to see whether there has been any similar expenditure of that scale in the time that they were in Government. The Government are committed to youth and will continue to fund it to the level that is needed. Secondly, there was implied criticism on a stoppage of the opening of clubs at weekends. I ought to explain to the hon Member that the reason why clubs started opening at weekends some eight years ago, was because of the custom that developed at the time of what was called "La curva del Med" where youths started grouping with motorcycles and bicycles and even on foot all along that stretch of road, causing problems to traffic and causing unnecessary congestion and a conscious policy was made at the time by hon Members when in Government, to open the clubs to attract people away from this particular area and it succeeded. It succeeded and the need disappeared. The fact is that up to about two years ago, the need had already disappeared and has been diminishing gradually to the extent that the clubs were being opened less and less, the attendance was not there, there was no actual programme ever put in place and all that was happening was that the doors were being opened, people were congregating there and there was no actual programme in place. It was identified about one year ago that this need was no longer there, that the funding that was being used up, and I have to say

this, in social overtime by a programme put in by hon Members when they were in Government, that that funding could be better used for youth for other purposes. We are not talking about youth clubs, we are talking about the Youth Centre in Montagu Bastion, not the rest of the youth clubs. What has been stopped is the regular opening of the Youth Centre and on the other hand the Youth Centre opens at weekends as other clubs as and when they are needed. When there is a need they are opened but what has been stopped is the regular opening because there is no longer an identified need for it and the funding can better be used for other purposes.

The hon Member also referred in a very general sweeping way, to events that were previously supported no longer being supported. I have only been able to identify in the short time from last night to this morning one particular event and that is a beauty contest for the Miss Fantasy title which was not held last year. I point the hon Member to the way youth clubs work. The initiative comes from the youths themselves and I am told that it was not held last year because there was no initiative from the youths themselves saying we want to organise this event. There was no policy put into place by the youth leaders or the service to stop the event taking place and the proof is that the Miss Plater competition did take place. As I say these events come from the initiative of the people concerned and not imposed from above, but certainly the event was not stopped from taking place by the Youth Service. The hon Member ended up with implied criticism of the Government and saying we ought to be listening to those who know. I presume by that he means, listening to him. Let me say this to the hon Member looking at him straight in the eye. I excuse him this time and I have gone to trouble to explain because of his relatively inexperience in this House, but let me be quite clear, the budget session and Question Time, as far as I am concerned in this House is an opportunity for the Government to give information. This Government contrary to his new colleagues when they were in Government, who had a policy of giving as little information as possible, this Government have a policy of being open, transparent and giving as much information as we can. We give as much information as we can to any

question that they ask. I will always provide as much information as I have just done now to genuine questions and quest for information. This is why I caution the hon Member because it is not a time for scoring political points. If the hon Member asks questions and wants information, I will give that information all the time, but if the hon Member uses the opportunity as a party political broadcast because we are live on air or he uses it as if it were in part of an election campaign [*interruption*] – the hon Members may snigger. A genuine quest for information will be answered with all the information available, the scoring of delivered political points will be, if anything, ignored if it is not a genuine question.

Mr Speaker, coming back to another of my areas of responsibility, Public Service Broadcasting, namely GBC. Before I go into a brief review of the work of the Corporation during the financial year that has just ended and offer a look ahead to the current year, I would like to publicly acknowledge the contribution made to the development of the services provided by the Corporation by its former Chairman, Mr Eric Ellul. Mr Ellul served continuously as the Corporation's Chairman from 1988 until the year 2000 during which he resigned at his own request. He has been the longest serving Chairman in the history of the Corporation. The Office of the Chairman is a voluntary appointment and Mr Ellul gave freely of his time during this 12 year period. As the House is aware, a new Board was appointed on 27<sup>th</sup> July last year on expiry of the previous Board's term of office.

Last year saw the commissioning of the much needed replacement transmitter and radiator for the medium wave service provided by Radio Gibraltar. The new transmitter site is at Maida Vale and replaces the installation at Wellington Front commissioned in the late 1950's. Not only has the quality of the signal improved but also the extension of its reach. This has improved the Radio service offered by the Corporation.

Radio Gibraltar continues to be highly popular amongst the Community and the Corporation is continuing with its plans to

complete the digitalisation of the radio studios. This year will see the completion of its three-year plan to convert to a digital programme making equipment. The benefit to the community is that once the final phase is commissioned, the Corporation will be offering two programme channels during the late evening and the night. The plan is for one channel to re-broadcast the BBC World Service and the other channel will be music based. As the system will be automated no increase in staffing levels will be required.

Another important innovation last year was the introduction of the GBC transmissions on the UHF Channel 32. This service was introduced last May and has improved the quality of the reception in a number of areas.

The House will have noted that there has been a noticeable increase in the level of local programming at GBC television, which is proving popular with viewers and helping to achieve commercial targets. This is something which the Government welcome. The average number per week of new local productions is now 8.5 hours. After allowing for a second transmission of selected programmes about 50 per cent of the programme schedule is devoted to local programming. The Corporation is committed to continue to both improve on the quality of local productions as well as increasing the number of local programmes.

Mr Speaker, speaking of local productions brings to mind the highly successful Open Day staged by the Corporation last December. As hon Members may recall, the amount raised amounted to over £40,000, an all time record. The success of the event demonstrates the generosity of the community and the support it lends its public service broadcaster. My congratulations to everyone who either organised, participated or contributed to the event that is now well established as an important event in Gibraltar's Calendar.

Mr Speaker, it is true to say that in recent months GBC has been the target of much adverse comment in the local press. However,

I am conscious that the Chairman and the new Board are working very hard with management to try and resolve long-standing and historical issues. For example, I am extremely pleased to note that the Corporation has already prepared and submitted its accounts for both the year ended March 2000 and March 2001. These accounts are presently being audited by the Principal Auditor and will be presented to the House once the audit is completed. Accounting procedures and systems at the Corporation are being overhauled and accurate management accounts are being prepared to enable the Board to monitor financial progress and to take the necessary remedial action promptly.

Also at the last meeting of the House, reference was made to the recent re-launch of the services provided by GBC. The re-launch plans in respect of the improvements to the transmitter networks, improvements to the local programme content and the increase in the number of local television programmes has been met. The only aspect of the re-launch plan that has still not been met is the projected level of advertising income obtained by GBC Television. On the other hand the projected level of income delivered by Radio Gibraltar has been attained.

The shortfall in advertising income derived from the TV service has been kept under constant review by both the Board and Management. A new marketing strategy introduced some months ago is showing encouraging results. This concept which the GBC is promoting as a "Lock-in" has already proved of interest to medium and small sized businesses. It is too early to know whether the new marketing strategy will prove 100 per cent successful and contribute to the Corporation meeting its projected TV sales targets.

I am also conscious that the Corporation is making strenuous efforts to stay within the financial parameters which have been set for the current financial year. This is not an easy task. It will require expenses to be pared down and an increase in revenues. The Government welcome these initiatives.

The Corporation continues to collect the Wireless and Television Licence fee on behalf of the Wireless Officer. The level of income has remained more or less static over recent years but it is hoped by the Corporation that once the Telecommunications Ordinance is enacted, this will result in a decrease in the number of unlicensed premises and the consequent increase in revenue from this source.

Mr. Speaker, this year the Government will be providing a Subvention of £950,000 to GBC and through the Improvement and Development Fund we propose to make available to the Corporation £100,000 for this current year. These funds in the I & D will be utilised to ensure the continuing of the capital equipment replacement plan, the completion of the Radio Gibraltar digitalisation project and a number of miscellaneous smaller projects.

On the Gibraltar Philatelic Bureau, I report briefly that their standing order customers are still on the increase despite a global decline in stamp collecting. The Bureau also maintains an annual policy of setting precedents for the rest of the philatelic world. This year the Bureau has brought to Gibraltar the Guinness World Record for producing and issuing a stamp of Her Majesty the Queen on the same day as the artwork was approved by Her Majesty. There are plans by the Bureau to set other records for the coming year. The Bureau maintains an excellent international image and will this year again be participating in the Small Western European Administrations Conference in Aaland in June.

Mr Speaker, Lyonnaise des Eaux (Gibraltar) Ltd currently employs 104 persons of which 18 are seconded Government employees. The Company continues to invest in the continuing development of all employees and once again this year has been paying particular attention to training in Customer Care and on Health and Safety. This past year the Company's Quality Management System successfully passed the external audits. This was the three-year re-validation audit to keep the Quality ISO:9002 and ISO:9001 (Total Business Registration) certificates. There were no corrective actions raised.



During the last financial year, a total of 1,147,000 cubic metres of potable water were supplied. Lyonnaise pumped a total of 3.3 million cubic metres of sea water to the various sea water reservoirs. The sewage pumping stations were operated at 100 per cent availability.

The quality of potable water supplied by Lyonnaise last year has complied fully with the requirements of directive 80/778/EEC.

The issue of most immediate concern to the company has been the lack of potable water production arising from the non-operation of the Solid-Waste to Energy Incinerator Plant. Lyonnaise, on behalf of Government, procured two auxiliary boilers via which steam could be produced for the desalination plants at the Incinerator. This is in order to meet, in the short term, water demands in excess of the production capacity of the plants operated by Lyonnaise. The cost of producing water by these means is expensive given that fuel has to replace the energy previously derived from waste.

Lyonnaise has therefore procured two new 1000 m<sup>3</sup>/day reverse osmosis plants at a cost of £2 million. This will enable them to produce the amounts it was supposed to have received from the Waste to Energy plant, at a more reasonable cost. These plants have already been manufactured and I think I am right in saying are already if not in total, in part, in Gibraltar and are scheduled to be commissioned in July.

Currently some 83 per cent of the potable water supplied is produced by distillers using fuel to raise the steam required. The substantial increases in the price of fuel at source added to the high value of the US\$ against the £ Sterling, has increased the energy costs by some £400,000 in the last financial year.

The Direct Debit facilities for payment have been successfully introduced with about 5 per cent of customers now using this method of payment. The company is developing their billing

software to enable those customers that wish to do so to receive bills via Electronic Mail.

The new telemetry system commissioned last year has proved successful. This allows computer supervision of all automatic pumping stations, providing alarms in the event of malfunctions. This year has also seen the further expansion of the Geographical Information System, which integrates record drawings and the technical database within the same IT environment. The Supply and Distribution Department is now connected directly to the Head Office Computerised Customer Contact Management system. This allows the technical side to better manage their customer service and in this last financial year Lyonnaise has carried out extensive water mains replacement using trenchless technology thus shortening the inconvenience to road users by some 25 weeks. Work has also been done by conventional open cut methods in those areas where the new technology could not be deployed due to the proximity of other services. The investment of refurbishing infrastructure continues with some £266,000, additional to the costs of procuring the desalination plants, approved for works by Lyonnaise during this coming financial year.

Finally telephony, for which I also have political responsibility as well as chairing the joint venture companies, Gibraltar Nynex and Gibraltar Telecommunications, commonly known as Gibtel.

On 27 March this year, the Government and Verizon announced at a joint press conference and informed employees of both GNC and Gibtel, their proposal to create a new joint venture telecommunications company that would bring GNC and Gibtel under common ownership.

Discussions at Board and Management level are continuing. I would inform the House that a merger team, under the chairmanship of a Director of both companies, the Hon Tim Bristow, and including the Managing Director of GNC and the General Manager of Gibtel, are conducting discussions on a variety of issues of common interest with the aim of both

companies working together in tandem in anticipation of the deal being satisfactorily concluded later this summer.

I can assure the House that once a deal has been arrived at, a further announcement will be made and consultation with the Transport and General Workers Union, representing employees from both companies, will take place.

The Government are convinced that the envisaged new telecommunications company will be much better equipped to provide Gibraltar with even better standards of services that we have become accustomed to in the past.

Throughout 2000 and during the past few months, both companies have been engaged in tackling the problem of "least cost routing" and failed calls to Gibraltar from abroad. Again, working very closely and in full consultation, Gibtel and GNC are tackling this problem with overseas operators such as BT, Cable & Wireless, AT&T, Sprint and others. I am cautiously optimistic following technical and statistical advice that I have received, that the problem appears to have ameliorated with tangible signs of improvement detected during recent weeks. However, we should be aware that the problems can never be completely overcome whilst international traffic can be routed to Gibraltar via Spain using the 0034 9567 route, thereby bypassing the '350' route for which Gibtel is responsible. In short until such time as the '350' code is recognised by Spain it will not be possible to solve this problem of calls coming in through Spain.

This takes me, of course, to the serious problems of the continued refusal by Spain to accept the '350' international code for Gibraltar that has led to GNC running out of numbers and also to the refusal by Spain to allow roaming agreements with GSM operators in Spain. I will not dwell on this matter, suffice to say that the problem is being addressed by both companies with full Government support. The Government deplore the continuing lack of a decision by the EU Commission to take legal action against Spain.

The Telecommunications Ordinance 2000 will soon come into force, undoubtedly opening up the market and bringing in competition that will be good for customers. In the meantime, both companies have continued to expand their services generally and acting in close co-operation, further reductions in international telephone rates are expected during the coming year. In fact, I am pleased to inform the House that tomorrow morning GNC will be announcing a new service, which will reduce very considerably the cost of certain telephone calls to many countries world wide. It is a considerable reduction, but I will not jump ahead of the press conference to be held tomorrow.

The highlight of the achievements of Gibtel during the financial year 2000/2001 was, without a shadow of doubt, the launch of the GSM pre-paid service on the 4<sup>th</sup> December 2000. As at 31<sup>st</sup> March 2001 over 7,000 customers subscribed to the service on the network. Whilst the level of the post-paid customer base remained static, because of the lack of numbers, over 3,200 new customers subscribed to the new pre-paid service. The capacity of the network was augmented to cope with the increase in the level of the customer base. Additionally, Gibtel commenced offering service on the 1800 Megahertz radio frequency band. This band offers better in-building penetration and enhances the roaming facilities of our network. The Short Message Service ('SMS') Centre was upgraded, made more customer friendly and has achieved an acceptable level of usage, which it did not have before.

Growth in the Internet services run by GNC continued to expand rapidly during the year 2000. In response to the business Community's expectations I am very pleased to announce that GNC has this week put into service a 45 Megabit Internet Hub, which will facilitate providing Bandwidth on Demand on a large scale. I am confident that the business community, in particular, the Chamber of Commerce and the Gibraltar Federation of Small Businesses, will welcome this news.

Commercial service on the private mobile TETRA network that Gibtel invested in for the Emergency Services of the Government

of Gibraltar was launched in May 2000. The network presently supports in excess of 300 users.

Both the international telephone and private leased circuit networks were expanded in line with demand. In order to add resilience to the international network, capacity was acquired on the South East Asia, Middle East and Western Europe 3, otherwise known as 'SEAMEWE 3' cable, which has a landing point in Tetuan, Morocco. Furthermore, an agreement was concluded with Itisalal al-Maghreb of Morocco to upgrade the microwave link between Gibraltar and Morocco. This new microwave link will have the capacity to support 155 Megabits of capacity, and could be upgraded to support in excess of 2 Gigahertz of capacity if the demand from the business community is there. The signalling protocol of the telephone route to Morocco was upgraded to Signal System 7 or 'SS7' and the number of circuits on the route increased by 50 per cent from 20 to 30.

In conclusion, Mr Speaker, I would like to pay tribute to my personal staff in my Ministerial office as well as to management staff and all others directly or indirectly involved in the daily running of my Government departments or those commercial entities for which I have political responsibility. The great majority of them remain unseen by the general public and their efforts generally unrecognised.

However, it is fair to point out that without those efforts, many of the things that we take for granted, be they water coming out of a tap, a room being illuminated when you press a light switch, or even a scheduled event like the lottery or like the collection of rubbish taking place then these things would simply not happen. I would like to take this opportunity to thank them all for a job well done.

In particular, I would like to single out my Principal Secretary, Albert Finlayson, my Personal Assistant, Denise Chipolina and my Personal Secretary, Olga Palao, for their committed, loyal and

effective support during their extended working hours and for their loyalty and understanding without which I would be unable to meet the wide range of political responsibility in all the areas which I have just spoken about.

HON MISS M I MONTEGRIFFO:

Mr Speaker, I will be dealing with the two Ministries that I shadow, which are Health and Sport. In my contributions I always take into account the performance of the Government throughout the outgoing financial year and comment on issues which are pertinent to Government policy and which we have brought up in this House.

I will start with Health. The opposition have raised many issues related to our Health Services in this House, and we have been critical as to the manner in which the Government are handling these very essential services. We have also been warning them of the concerns and criticisms constantly being brought to our attention by the general public. Unfortunately, the Government have dismissed these, as if we have been inventing them.

The Chief Minister and the Minister for Health, a few months back, challenged us in this House to pass the details of public complaints over to them, and we did so. And what happened? In the last Question and Answer session, we were told by the two same hon Members that we should pass the complaints over to the Gibraltar Health Authority and not to the Government. They simply do not want to know. Then when we have decided to go public, the Government have accused us of political hypocrisy and opportunism.

In the meantime, the complaints continue to pour in and the Government's attitude, as we have witnessed in this House and publicly, is to try and brush them under the carpet in order to try and camouflage the situation that they have created themselves. Therefore that is why they have tried to accuse us of trying to score political points.

Mr Speaker, yesterday the Minister for Health, Dr Bernard Linares, went further. He spoke of sabotaging by members of the staff. Could it be that he has become as paranoid as the Chief Minister or is it that he is desperately trying to bail himself out?

He also complained about patients, about their relatives, about elderly people who are purposely blocking beds – that we, the GSLP, relied on amateurish people - what nonsense, when he knows perfectly well that the people prior to 1996, are the very same people who are there today. They have not changed at all.

He then went on to give prominence to training in relation to nurses and doctors, as if we had not provided for training. As a matter of fact, Mr Speaker, more people were trained with us, from Nursing Auxiliaries to Enrolled Nurses, so much that the Government continued with our policy of highlighting training. With all the training he referred to yesterday, never in the history of our Health Services have there been so many complaints as there are today.

As to the School of Nursing, we did not close it down as the Minister alleged yesterday. His memory is definitely failing him because it was none other than Mr Peter Cumming who closed it down of his own accord, and hence he had to be moved elsewhere, so whoever is feeding him with stories has been feeding him with the wrong ones.

The Minister's intervention, in the words of the Chief Minister himself when he spoke yesterday, has been a completely unprecedented one in the whole history of this House. Everyone under the sun gets the blame and he exonerates himself from any political responsibility. An explosive performance.

It is an inescapable fact that the Government do not want to admit that complaints are increasing by the day. Even if they do believe that the situation has not worsened since they came into power, then surely, they must be losing touch with the ordinary person in the street. One needs only to have listened to the GBC programme 'Viewpoint' only a few weeks ago, when nearly all of

the people ringing in were doing so with complaints about our Health Services.

We compare our Health Services today to a ship with no one at the helm, without a course. A ship sailing on dangerous seas and the only reason why the ship has not already sunk is because of the efforts put in by its dedicated staff, who if, as the Minister said, were amateurish people, they must also be amateurish today because they happen to be the same people. They have not changed.

I do really dread to think in what condition our Health Services would have been today if the GSD Administration had not inherited them in the manner we left them, but had inherited them in the manner they were prior to 1988. It does not bear thinking about.

Both the Hon Mr Azopardi and now the Hon Dr Linares should consider themselves far luckier than I was. Their task was far easier than mine, and yet, the services have been deteriorating year by year since the GSD took Office in 1996.

If we are to talk about political hypocrisy and opportunism, let us look especially to the Hon Dr Linares. Apart from rubbishing the efforts we put in, he has the audacity to claim that our Health Services are now better than they were during our term in Office. That with us they were Third World standards. Undoubtedly, the one person who teaches us better about political hypocrisy and opportunism, is the Minister for Health himself. His claim that everything is well within our Health Services is the joke of the year. He knows it perfectly well, except he does not mind at all distorting the truth. This is what he is best at doing. Again he appears to be learning from the Chief Minister. Yesterday he was so economical with his words, that I hope he will one day look towards clearing his conscience.

Mr Speaker, and as to his quoting Shakespeare, in "As you like it", he did not finish the quote, and it so happens that I am familiar

with it and I think that the whole of it is even more relevant. It reads as follows:

“All the world’s a stage and all the men and women are merely players, they have their exits and their entrances, and each man in his life plays many parts.”

This is so true of the Hon Dr Linares.

From the Opposition benches we have never reacted precipitously or irresponsibly. Even when we have expressed our doubts on Government policies, we have said we would give them time. Indeed, we have told them that we think they are about to make a mistake, but that we are prepared to await the results of their measures to materialise.

For example, even though at the time of the announcement of the Complaints Procedure, I did say that the process seemed far too long and complicated, we nonetheless told the Government that we would wait and see what happened. Indeed, we took this same line with the functions of the Gibraltar Formulary Committee, though I did mention in this House during Question Time that they appeared to be acting more as a deterrent rather than helping those patients with genuine complaints. The Government, however, did make quite a song and dance from the onset, especially about the Complaints Procedure. The Opposition soon after the Complaints Procedure was constituted, were already having doubts about its efficacy. In our opinion it was too long-drawn a process and also more and more people were telling us that in their experience the Complaints Procedure was simply a waste of time.

Mr Speaker, we have the Ombudsman practically expressing this very sentiment in his recently published report. I hope the Government on this occasion, have taken his comments seriously, as they are pretty strong ones.

During a period of nine months, 67 official complaints were made against the Gibraltar Health Authority. The Ombudsman states

that his practice is to investigate complaints after the GHA has completed its investigations.

Regrettably, he goes on to say he has only been able to conduct three formal investigations involving administrative complaints. He has not been able to deal with any of the clinical ones because they have been held up in the GHA Complaints Procedure and none have been concluded. And I quote:

“It seems that instead of the complainant exhausting his/her avenue of redress, the GHA Complaints Procedure exhausts them. Needless to say these excessive delays give rise to anger and frustration amongst complainants.”

Practically my very words in this House.

The ombudsman continues to say that this situation is inadmissible and that either the Government should equip the GHA with extra resources or refer complainants to an independent authority that will properly and effectively investigate such complaints.

Mr Speaker, in the last Question and Answer session of this House, I brought the matter up and after another of his usual arrogant and ballistic interventions, the Chief Minister, surprisingly simmered down and conceded that they were indeed reviewing the situation.

The Government should also take note of the figures they gave me in this House which show that the total number of complaints from January 1999 to date is 209. This figure is high especially when we are talking about complaints which are made officially to the Gibraltar Health Authority through the Complaints Procedure. Mr Speaker, when we take into account the feedback from the general public and the serious comments made by the Ombudsman, the Complaints Procedure is definitely not working. Again, we have been proved right in our analysis. This Government have a tendency of implementing policies which are

too bureaucratic in nature and not in line with Gibraltar's needs. We have levied this criticism at them on many occasions.

Again, I can draw this same conclusion with the medical and nursing reviews. The Government hailed these reviews as being just what our Health Services needed to bring them up to the highest level. However, they have refused in this House to say which recommendations on the Medical Review they will not be implementing. On the Nursing Review, their approach has been completely different to its recommendations in relation to the ratio between the numbers of trained to untrained staff. So much about reviews with the Government, because the reality is that they have definitely not produced a significant impact on our Health Services. Instead our Health Service is riddled with all sorts of problems on which I will be further expanding and problems which never existed in the eight years of a GSLP administration.

The Government also took the decision to unfairly penalise its users by implementing huge increases and different policies within the Group Practice Medical Scheme, as regards prescriptions and doctor's house calls. They have introduced cheaper medicinal products, generic prescribing, together with a black and white list, in a bid to save money. We could list many areas in which the Government can make savings instead of having to implement cost-saving exercises within our Health Service, which can only affect the sick, the chronically ill and the elderly in our community.

On the other hand, this Government have shown to be quite extravagant, not only with themselves, but also with those in our community who are better off and in the minority. They do not seem to care as much about the less fortunate who are the ones in the majority.

For the first time ever we have also witnessed the problems of the acute shortages of beds at St Bernard's Hospital. Complaints by many patients about the Primary Care Centre continue, complaints from sponsored patients, waiting lists for out-patients and in-patients are higher. Also for the first time ever, we have

heard the very serious allegations emanating from a Senior Consultant who decided to go public and whom the Government subsequently decided to sack. They ignored the general feeling in Gibraltar that there should be a public enquiry, given the serious allegations made by Dr Rassa. Our position in this matter was not to automatically defend Dr Rassa, as we repeatedly stated publicly, but to try and convince the Government that a public enquiry would allay the fears and concerns these allegations would add to the already existing ones. We have always put the interests of the patients first. However, the Government as usual went on the attack and refused to act responsibly and in consonance with public opinion.

Soon after the dismissal of Dr Rassa, the Minister for Health stated in this House in answer to a question, that the arrangements put in place at the x-ray department were working well. This proves that he must be completely out of touch with the problems that were being encountered by the patients, who were being told by the Health Authority that because there was a huge backlog they would need to wait for about a period of four to six weeks before their x-rays could be taken. I even had some patients approaching me saying that they had been diagnosed by their general practitioners with possible pneumonia, but even so, the required x-rays could not be taken until about one month's time. We also warned the Government of the dangers of having locums producing x-rays in the Spanish language, then these having to be translated into English by members of the Health Authority staff. Still the Minister's interpretation of the situation is that things are working well.

Mr Speaker, I continue to ask myself, how can we be accused of political hypocrisy and opportunism by the Government? Is the opposite not the case, when the Minister has the incredible cheek to say in this House, that, for example, the Primary Care Centre is a Centre of Excellence.

Everything appears to be a Centre of Excellence, according to Dr Linares, when it applies to his departments. I cannot but refer to him, Mr Speaker, as "Bernard in Wonderland".

Mr Speaker, what we are doing is carrying out the role of an Opposition, acting responsibly with facts at our disposal and always trying to help as much as possible those members of our community with real problems and concerns. We bring issues to this House of public concern, like the question of the proposed Dialysis Unit, in which we hope the Government will provide facilities for both in-patients and out-patients, even though to date they have refused to give us any form of commitment.

Surely, Mr Speaker, the Government have forgotten how they used to behave when they were in Opposition. They engaged in the worst form of gutter politics as never witnessed before in this House, unprecedented, to again use the favourite word of the Chief Minister in his contribution yesterday. Moreover, they proved they did not care then about damaging Gibraltar's interests. Ironically, today when in Government, they do not answer some of our questions because they tell us they could be damaging Gibraltar's interests in the process. And what do we do, we put Gibraltar first and we do not press them.

Now I come to yet another gimmick from Government Members. That is their constant use of the words "accountability" and "transparency". Quite honestly we are by now quite fed up of listening to them because when put to the test, the Government have done the opposite to what they preach and when it suits them, they are quick to transfer accountability to either the civil servants or the experts they engage from outside or anyone else they happen to think of.

There are two things this Government are good at. They are good at brushing complaints and problems under the carpet and in engaging in a constant propaganda campaign. Of course, their task has been made easier because after all they really do have at their disposal a very good party propaganda machinery paid for by the taxpayer.

Their philosophy is to primarily try to convince people that they are producing more than what they actually are with a constant

barrage of announcements and statements in press releases, and if these do not materialise soon after, all the better for the Government, because they will be able to make the same announcement later on, giving the impression it is a completely new initiative. They do this constantly. They repeat what they intend to do months before it happens and repeat it again months after it happens. What we see from the GSD Administration is more and more spin and more and more rhetoric, rather than more significant improvements.

One good example in relation to our Health Service is the publication of an annual report for the Health Authority with glossy pictures and illustrations and statements, but we seriously need to question these statements.

The previous Minister for Health, the Hon Mr Azopardi, in the 1999 Report, talks about major initiatives and a milestone and refers to the space for rehabilitation services for patients. Mr Speaker, this major initiative or milestone has been conducive to worsening the problems of the shortages of beds for which only this Government are responsible for.

The Rehabilitation Centre has in effect deprived the Health Authority of a much needed ward, as the kitchen previously located in the area that the Centre now occupies, was then relocated to the former Lewis Stagnetto ward. In turn, Lewis Stagnetto ward went over to what used to be Private Corridor, so the Health Authority because of the Centre has lost one ward. But even with the same number of wards as there are today, because when in Office we used Private Corridor for decanting purposes due to our refurbishment of all the wards and with the same number of in-patients, we never experienced the same problems this Government have on the acute shortage of beds.

In reply to our questions as to the real causes, the Government have kept switching from one reason to another. Yesterday, we heard the Minister again put the blame on others. And who does he blame this time, the elderly occupying beds. Has he also

forgotten that according to the figures he has provided in this House their numbers are down and also lower than when we were in Government. However, we did get a very valuable contribution from the Chief Minister during the last Question and Answer session. He assured us that the Minister was not throwing the beds out of St Bernard's Hospital windows. When the going gets hard, he either goes ballistic or plays on the ridiculous. Even after the mixing of male and female patients in all of the wards, and even with a reduction in the number of elderly patients at St Bernard's Hospital, there have still been problems of acute shortages of beds.

Another deplorable situation is that of patients alleging they have been discharged far too soon and those waiting for admission being told at the hospital that they cannot be admitted and they should return home until they are called up again. Patients having to make the trip all over again, hoping that this time there is a bed for them.

There was indeed a letter published in yesterday's Chronicle, that highlights the very same problems I have just mentioned. It involves a 78-year old lady who was told that there could be a problem with beds. According to the family, she is suffering from major physical problems but she was told she had to go back to where she belonged and she had to do so before 5 pm. She was then discharged from the ward and taken to the hospital main entrance before the family could go to the ward and collect her.

I ask myself again, is it that we in the Opposition are just showing political hypocrisy and opportunism every time we question the Government's handling of an issue? Or is it, Mr Speaker, that they believe to be beyond reproach and questioning?

Turning now to the last Annual Report of the Gibraltar Health Authority. We encounter the Hon Dr Linares, the new Minister for Health, now supposedly at the helm of the Health Authority. More propaganda, "à la GSD", with the Hon Dr Linares pictured on the steps leading to the Europort Building.

The new Minister for Health repeats what he said in last year's Budget Session, that he intends to establish a new process of consultation at grass-roots and the seeds of this, such as the Complaints Procedure, have already been sown. We all know what has happened to the seeds of this procedure. They have not grown well at all.

But there is one quote, which the Report gives prominence to and which strikes me as quite extraordinary. It says the following: "What the Health Service is actually to do ... is to put a megaphone in the mouth of every complainant so that he/she will be heard all over the country."

Can the Government really expect people in Gibraltar to believe that they can subscribe to such a statement? Do they honestly believe that people in Gibraltar are so gullible?

Who is then the party of hypocrisy and opportunism?

I continue with more complaints within our Health Service. The waiting lists for both in-patients and out-patients have not improved at all when we compare them with the lists that existed under the GSLP Administration. Then, Mr Speaker, the GSD were critical of our lists. Indeed, in some specialties the lists are even longer today, especially as far as routine operations are concerned. The most recent one relates to the answer the Government gave us to Question No.699 of 2001, and I am able to draw the comparison with the answer we gave to Question No. 37 of 1994, when we were in Office.

They compare as follows:

Today: Ear, nose and throat - Waiting Time: one year  
In 1994: Seven months, an increase of five months.

Today: General surgery - Waiting Time: six months  
In 1994: Three months, an increase of 100 per cent.

Today: Orthopaedics - Waiting Time: Eight months.  
Knee Operations " " Two years



In 1994: Minor – Three to four weeks  
Intermediate - Six to eight weeks  
Extra major – One year, an incredible increase.

Today: Ophthalmology – Three to 12 months  
In 1994: Five months, again, more than doubled.

The Government's performance in this area also falls short of the situation prior to 1996.

Mr Speaker, as far as Private Practice is concerned, the Minister has said that they have regularised it and he is pleased with the way things are working. He also said that public patients will not be adversely affected. Nonetheless, in the last Question and Answer session, the Government told us that they are not willing to provide us with the lists for private patients, because they believe that they are not relevant. So much for their accountability. We believe the system is already forcing quite a number of public patients, who are worried on the diagnosis they have been given, to pay because they will be treated quicker, far quicker. Perhaps, we are starting to be proved right again, not only by the figures I have just quoted, which show a significant increase on the waiting lists for public patients, but by the feedback we are getting from the general public, that private patients are receiving preferential treatment.

I would now like to remind the Government that when we were in Office, they alleged we were finding difficulty in replacing consultants because of our "No Private Practice" clause. The most it took us was a few months, but certainly we did not have difficulty in recruiting consultants because of our "No Private Practice" clause. Of course, the Government took this clause away, and what do we find, Mr Speaker? We find that it has taken them years to replace some consultants even though they have offered them private practice. They have had to resort to using locums for very long periods of time.

They have even been unable to recruit a replacement for the previous Radiologist, Dr Rassa. The Minister confirmed this

recently in the House, saying that none of the applicants have been found suitable but that he is happy with the arrangements, which are more locums, with more that cannot even write in the English Language. In any case, their argument does not hold any water as in this area as well we have proved to be more successful than them.

In conclusion, Mr Speaker, our Health Service today is sicker than ever. The long prospect of the hospital occupying a building at Europort will definitely not cure all the ails it is presently suffering from, because after one and a half terms in Office this Government have proved their incompetence and their could not care less attitude. So, for as long as the GSD are in power, the prognosis is not a good one – our Health Service will suffer the prospect of getting sicker and sicker.

Mr Speaker, I will go now to sport. The Minister, the Hon and Gallant Mr Britto, must understand that in politics he is accountable for his words. I know that he thoroughly enjoys publicity and a high profile, but the propaganda he dishes out in public sometimes runs ahead of reality. Only yesterday in the Chronicle, he was pictured in the front page, trying to hit a hockey ball and incidentally was unsuccessful.

If over a year ago, he announces on GBC the transfer of Europa Sports Ground from the MOD to his Government, he should not get upset if I continue in this House to remind him that today it still has not materialised. I believe that constant pressure from the Opposition is healthy, rather than the Minister referring to Standing Orders. In any case, my questions are follow-ups, because I do not get a reply. So much to his reference again as regards accountability.

We all know the Minister blames the MOD for the delay, but, if the Minister were to actively pursue this matter with the MOD, as I do in this House with him, perhaps today our cricketers might already be the winners of this long-drawn saga.

I welcomed two years ago, the announcement of the building of the Sports City at Bayside Road. Recently, in this House, the Minister for Sport, after pressure from us, finally gave us the estimated date for its completion. We were naturally disappointed that he expects this to be in the year 2003. Therefore, when we consider that this was a GSD commitment in the year 1996, it will then have taken the Government seven years to deliver on its commitment.

As far as the Leisure Complex is concerned which was also a GSD commitment in the last General Election, the Minister has only gone as far as to say that works will commence before this term of Office has finished, which means that if anything happens in the year 2004, we could expect a few more years to have elapsed before the works are also finally completed. We still do not know exactly what facilities will be put in place. When we are critical of matters involving sport, they are in relation to the long time it takes from an announcement by the Minister for things to materialise.

Yet another GSD commitment still pending, which is the move of boat owners at Western Beach to the area of Coaling Island. We have been questioning the Government again in this House and after they said problems were finally resolved with the MOD, they then tell us that the matter is being discussed with a third party. We hope that the Government will pursue this matter vigorously so that by the time next winter comes along, boat owners are finally free, once and for all, from the problems they are encountering at Western Beach.

I always give credit to the achievements of our sports people, particularly today to our fishermen, hockey players and Special Olympics, who have recently done us proud and have achieved very good results in the face of stiff competition in international events. But all our sports people do us proud. The Opposition have always placed a lot of importance on sport, not only because it enhances our quality of life, but also because it puts Gibraltar on the map and we participate as a nation with our own flag. When in Office, we invested heavily in improving and providing sporting

facilities within a short space of time. The Island Games hosted in Gibraltar by us, were hailed by the International Committee as the best ever.

I wish to comment, Mr Speaker, vis-à-vis our neighbours. The Minister has not done so. That is to say, that the Spanish Government have not changed at all. They continue to behave undemocratically towards our sports people. Yet, they are so quick in reminding the world that fascism no longer exists in Spain. When it comes to the Gibraltarians they behave as Franco used to. They are simply not prepared to play by the rules even when it comes to sport. Spain does not recognise that the people of Gibraltar exist. Hence, according to them, we do not have a flag and we do not have a voice.

The Gibraltar Badminton and Football Associations are the two most recent examples. Spain has gone all out to stop them from either competing in an event representing Gibraltar or from being accepted as a member of an international body. Hence, the importance for all of us to give them all manner of support.

This is the reason why we believe that Gibraltar must resort to challenging Spain legally in a court of law whenever our rights are being questioned. We are quite pleased that our associations are going down this route. Pity, however, that our Chief Minister has not learned from our sports people. He has already refrained from seeking legal action against Spain by the EU Commission, more so, when he had previously said in this House the very opposite. He then tries to get out of it by either distorting what he said or he categorically accepts that he does not engage in battles which he believes he will lose. If our sports people had taken his defeatist attitude that stronger and bigger nations win at the end of the day, then most of them would not be winning medals and events against bigger and stronger nations as they have done and continue to do so today.

I therefore wish to end my contribution by reminding the Chief Minister that he has already let Gibraltar down on the question of the fishing dispute, HMS Tireless and our identity cards and we

will await the results on the latest dispute as to our international telephone code.

With the Fishing Agreement, the Chief Minister said it would not last a day if the queues continued. The queues have continued but so has the Fishing Agreement.

Now, the Government do not want a repeat of the Tireless affair, even though they were defending its presence for as long as it was here.

The Government agreed to have the words "Government of Gibraltar" removed from our new ID cards in return for Spanish acceptance. A bad deal because we conceded to their demands rather than testing the validity of our ID cards before the European Courts. In any case, we are seeing how regardless of the deal, the Spanish officials one day accept them and another they do not.

Mr Speaker, I end my contribution by stating that if our Chief Minister continues with his policy of appeasement, and he is not prepared to fight and stand up for our rights, then we, the people of Gibraltar will continue to emerge as the losers with all its consequences, which we eventually will have to contend with.

The House recessed at 11.30 am.

The House resumed at 11.45 am.

HON J J HOLLIDAY:

Mr Speaker, my intervention today will cover three distinct areas, in the following order: The estimated revenue which will accrue to the Consolidated Fund from Tourism and Transport; the estimated recurrent expenditure on Tourism and Transport; and

finally the expenditure which will be charged to the Improvement and Development Fund in respect of my Ministry.

I turn first to revenue. There will be a considerable increase in the revenue which will be generated by both the Gibraltar Tourist Board and the Port Authorities. The Government intend to maximise the potential of both tourism and the port to create wealth for Gibraltar. Consultation has been held with the relevant sectors before making changes, that will generate this additional revenue. The sources of the additional income will be visitors to Gibraltar and maritime callers. This is important. It is fresh money from outside entering our economy.

Tourism will generate additional income due to the changes that have taken place in the Upper Rock admission structure. There have been complaints by some at the fact that the Upper Rock charges went up, as from 1<sup>st</sup> April this year. The reality of the situation is that the new current structure still continues to provide operators with a significant potential for profit, and represents exceedingly good value for our customers, the visitors to Gibraltar.

The new admission charge, introduced as from 1<sup>st</sup> April, to visit all the Upper Rock sites and the 100 Ton Gun is £7 for adults and £4 for children. This fee allows admission to St. Michael's Cave, the Upper Galleries, the Medieval Castle, the City Under Siege Exhibition, the Upper Rock Heritage Centre and the 100 Ton Gun. The operator rate of fees charged to the clients of tour operators, taxi drivers and the cable car to visit all these sites is £3. They can nevertheless charge £7, if they wish to retain the difference. The price structure gives operators on the Upper Rock sites, a net profit from the entrance fee of £4. Additional profit is made from the service they offer, be it a coach tour, a taxi tour or a cable car ride. It is an incentive for tour operators and taxi drivers to market and deliver a good product to visitors.

A primary concern on the part of the Government was that Gibraltar was being undersold. Operators outside Gibraltar were making a major profit from the Gibraltar tourism product. The Government feel that the local industry should make a reasonable

profit, and that outside parties should have a fair return. This is what the Government have attempted to achieve.

Just as important, the Government - through the new structure - have done away with the pricing abnormalities which previously existed and finally established a level playing field for all providers of tourist transport and tours. It is therefore with regret that Government have found itself locked in litigation with M.H.Bland, over the cost of admission into the Upper Rock for its clients. The Government consider the legal action instituted by the operators of the cable car wholly unjustified.

I had originally estimated that the Government would benefit by almost £500,000, as a result of the increase in the Upper Rock admission fees. The experience of April and May 2001 has proved that my estimate was too conservative. Tourism admission fees at tourist sites should generate £2.4million this financial year. This means an increase of £750,000.- over the last financial year and an increase of £1.3million compared with the 1997/1998 estimate of just £1.1million from this source, when the Upper Rock was under the management of Sights Management.

There was opposition from certain sectors when I announced that the parking fee for coaches at the Coach Park would rise from the fee of £5, which had remained unchanged for very many years, to £10. This rise was consequent on the provision of new facilities at the Coach Park. This sector predicted a sharp fall in coach arrivals. I am pleased to say that this has not happened. In April 2001 there were 1132 coach arrivals at the Coach Park and in May 2001 a total of 1269 coaches. I estimate that Gibraltar will consolidate the number of coach arrivals at over 14,000, which will generate £140,000 for the economy instead of £70,000, thus doubling the income to the Government from this source.

With regard to the Port, although the last financial year reflected the sharp increase in revenue that was generated from the increase in port dues, which came into effect on 1<sup>st</sup> August 2000, this year will see the effect of revenue generated at the new rates

for a full year. I estimate that the revenue to be generated by the port will rise to £450,000 in respect of tonnage dues and £270,000 in respect of berthing charges a total of £720,000 for the year, and this compares favourably with the total estimate of £360,000 for both these items in 1997/1998. Indeed, I originally underestimated the amount, which will be collected in tonnage dues. Since fees went up, the yield from this source has increased four-fold, from £80,000 in the eight month period to April 2000 to £329,000 for the eight month period to April 2001.

The increase in yield justifies the Government investment in improving the infrastructure of the Port. This has recently been enhanced through the introduction of a Vessel Tracking System, the latest of a series of improvements. Further improvements are planned, and I will refer to them later in my address.

The Government continue their strategy to develop and grow both tourism and the port, which are major sources of employment in Gibraltar. The figures in these areas speak for themselves. Since this Government came into office in 1996, visitor figures through the land frontier have been maintained and consolidated, with a growth of over 12 per cent. Coach arrivals have increased by over 27 per cent. There has been a 33 per cent increase in air arrivals. Hotel nights sold has gone up by over 16 per cent. The increase in visitors to the Upper Rock has been a staggering 47 per cent. Cruise ship calls have gone up by 76 per cent from the position inherited of 99 calls in 1997 to last year's 175 cruise calls, and passenger arrivals have almost doubled, with an increase of 98 per cent.

When comparing last year's tourism figures with the previous year's figures, there were a record 7 million visitors through the land frontier compared with under 6 million the previous year. Coach arrivals went up from under 12,000 to 14,763. Air arrivals went up from 98,300 to 104,300, the best figures for air arrivals since 1990. Visitors on cruise ships went up to over 138,000, compared with 125,000 the previous year, although the number of cruise calls only increased from 173 to 175 vessels, which shows

that cruise ships are getting bigger, with larger number of passengers. Guest nights sold at hotels went up from 154,000 nights to 164,000, the best result since 1991. Upper Rock visitors were at a record 791,300 compared with 723,000 the previous year.

With regard to the Port, there has been an increase of 40 per cent in the number of ships calling at Gibraltar when comparing the year 2000 to 1996. The volume of bunkers delivered has gone up by almost 60 per cent over this period. Finally, the Gibraltar register of ships has grown from 27 vessels in 1996 to 75 vessels as at the end of May 2001, which represents over 800,000 gross registered tonnes of shipping. It is expected to further grow to reach the figure of 100 vessels and over 1 million tonnes in the Register by the end of this financial year.

In 2000, there were just under 6,000 ship calls at Gibraltar compared with just over 5,500 the previous year. The gross tonnage of these vessels rose to a record 129.4 million from 117.3 million tonnes the previous year. The volume of bunkers sold was over 2.7 million tonnes, which consolidated the previous year's performance of 2.6 million tonnes.

I will be monitoring the various tourism and shipping indicators closely to ensure that Gibraltar continues to grow in both these sectors, and at the same time to ensure that the Government derives the maximum benefit from the resources owned by Gibraltar. I have every confidence that this will be the case.

Mr Speaker, I now turn to expenditure. With regard to the Consolidated Fund expenditure, I have taken each of the items in Head 6, Tourism and Transport, in turn. Head 6A covers Tourism. I wish to comment, in particular, on subhead 8, Marketing, Promotions and Conferences. The funds available for this purpose have been increased by £200,000 to £950,000. The increase in spending in this item is in respect of above-the-line advertising. The direct advertising spend will be in excess of £500,000 for the first time, more than doubling last year's spend,

if the cruise market advertising at Head 6D is added to the general tourism advertising. Most of the advertising activity will be geared towards the UK market, as part of the Government's two-prong strategy. This aims to increase hotel occupancy, partly through the promotion of conferences, and to keep Gibraltar as a tourist destination before the eyes of cruise operators and the British public. This has to be done in the face of fierce competition from many other competing destinations. Just over 15 per cent of the budget will be spent on advertising in Spain. The lion's share will be spent in the UK. There is a small proportion, of just over 8 per cent, which will be spent locally to print maps and brochures for visitors to Gibraltar and to promote events which will take place in Gibraltar such as the Blue Water Rally for yachts, the International Dog Show and the Powerboat Festival.

The approach to UK advertising has been completely re-assessed this year. Nearly half the above-the-line advertising spend will be dedicated to display and classified advertising and to the traditional brochure panels which have been so successful in the past in obtaining visitor enquiries on Gibraltar. The programme for placing advertisements for Gibraltar has also been reassessed. For the first time, the money will be spent on a year-round basis, so that there is an element of advertising at all times, with certain peaks coinciding with the UK market trends. Thus, there will be a peak of advertising at the time of the World Travel Market, and around December/January, when a large proportion of UK holidaymakers make their holiday plans and bookings for the summer. This will be complemented by lower activity at other times of the year. This was not possible previously, as the funds available for above-the-line advertising could not be stretched beyond the advertising at peak times.

The Government seek to be innovative and to enter into public-private partnerships with tour operators and airlines in order to maximise the exposure, which Gibraltar receives. It is for this reason that classified advertising is the new medium selected by the GTB for this purpose. The Government will seek contributions for specific advertisements from private sector players. I consider that the range of classified advertisements, which have been

produced by our new advertising agency, will work well for Gibraltar. They will promote different aspects of the Gibraltar product together with the tour operators who sell Gibraltar packages. Already, the feedback, which I have received from tour operators, has been extremely encouraging. They want to participate in this new initiative. Through this initiative, the true marketing spend on Gibraltar will top the £1 million mark for the first time.

The way in which the marketing budget has been structured in the past has been completely reassessed for this year. I believe that Gibraltar needs to be at the forefront of new developments and strategies. That is why the Gibraltar Tourist Board have dispensed with the services of PGC, our advertising and public relations agency. Various companies were invited to submit offers for the Gibraltar account, and they were closely considered. The Gibraltar Tourist Board has now appointed DOT.COM PR Limited to handle public relations and BBVS (Bygraves Bushell Valladares & Sheldon Ltd.) as our advertising agency. In addition, The Network, a company specialising in tourism marketing, has been appointed to assist in marketing initiatives. They will distribute Gibraltar brochures in the UK, while at the same time carrying out personal sales representation activity. In addition, they will organise roadshows for travel agency staff. It is a completely new departure for the GTB and a totally new team will deliver the goods. All the new contractors have been given a one-year contract, and they will be judged on their performance. If they deliver what they promise, they will be retained on an annual basis.

I am pleased to announce that Gibraltar will have an e-strategy for tourism promotion this year. Our new PR Company will spearhead this. On-line advertising will be tried for the first time. There will also be an on-line press office for distribution of press stories and press releases in connection with tourism in the UK. In addition, the company will maintain the GTB website in the UK. This will, in total, provide opportunities for targeted activity to suit Gibraltar's customers, access to new markets, increased brand

awareness for Gibraltar, and a flexible marketing tool that can react speedily to change should it be required.

What was good about our previous advertising and marketing strategy has been retained. However, the marketing budget has been strictly scrutinised, on the basis of value for money, to incorporate new departures and new approaches, which I believe, will make 2001 a record year for tourism and visitors to Gibraltar not only from our core market, the UK, but also from Spain.

Getting visitors to Gibraltar is the first pillar of our strategy. Looking after them satisfactorily and delivering a good experience is the natural partner to this strategy. That is why, at subheads 11 and 12, there will be increased expenditure on GDC staff services. This reflects the additional staff recruitment by the GTB to man the new tourist information points which have been created at the Coach Park and the Ferry Terminal, and the additional staff for the Upper Rock tourist sites.

Mr Speaker, there is a new subhead 12(c), Security. This reflects the fact that the Government have to employ security guards in the area of St. Michael's Cave, to control traffic especially at peak times and also at the Coach Park. Previously, the services of a security company were provided to the Government by the same service provider which was appointed by Sights Management Limited. However, this service provider has now been selected following a tender procedure. The Government therefore put out to tender the provision of security guards and the lowest tenderer - who was not the previous provider of the service - was appointed.

The area round St. Michael's Cave is prone to traffic congestion caused by the large number of tour buses and taxis which carry visitors to our prime attraction on the Upper Rock. The new security guard measures, together with an improved change in the traffic management system, have alleviated some of the problems in this area. I know that the Government's approach on this matter has been questioned by a particular sector. The reality is that the Government need to take an overall view of this

matter and to provide as safe an experience as possible for our visitors.

Mr Speaker, I do not believe that there is any matter of significance which needs to be addressed in respect of the expenditure on Heads 6-B, Transport - Airport and 6-C, Transport - Traffic. The Government continue to have a proactive policy to address traffic issues, and this consistent approach has been bearing fruit. I will revert to this subject when I address the House on the Improvement and Development Fund.

I have already referred to the increased income, which the Port will generate for Gibraltar. Head 6-D, Transport - Port, outlines the expenditure plans of the Government for the Port Authority. I am concerned at the length of time it is taking to put in place a workable Port Authority structure to replace the old Port Department. I had hoped for more co-operation from the staff side involved in discussions on this subject. I cannot understand the attitude of mistrust, which appears to lie at the heart of the Union's negotiators with the Government.

There is no hidden agenda for the Government insofar as the Port is concerned. There is simply a desire to ensure that the demands of a modern Port Authority are adequately met and resourced, and that the structure of the Port Authority works in a transparent, practical and cost-efficient manner. The Government will consult with the Trade Unions, and will carefully consider all the views put across. However, at the end of the day, it is the Government, which need to take decisions on how the Port Authority will be structured and how it will work for the benefit of Gibraltar as a whole.

In addition, there is a clear marketing strategy, which is being followed in respect of shipping. The advertising budget for the Shipping Registry, the Port and the cruise sector are all handled centrally by the Chief Executive of the Port Authority in order to ensure maximum exposure and the best value for money. There is a "Maritime Gibraltar" corporate image, which is in place. The Maritime sector is buoyant, and doing well.

I am pleased that notwithstanding problems, which arose earlier this year, ship repair continues to be an important element within the portfolio of products, which Gibraltar offers. The Government will continue to work to encourage commercial operators to offer as wide a range as possible of port and shipping related services.

I will turn now to the Ship Registry. This has been a success story for Gibraltar. The number of vessels on the register has increased, as I have stated previously, as a result of Gibraltar's Category 1 status within the Red Ensign Group and also to the hard work of the small Registry team. What is most significant about the growth of the Register is that new vessels are being attracted by the Gibraltar flag, including prestigious ships such as cruise liners. Additionally professional staff are being recruited by the Ship Registry. I look forward to the day when we can look to Gibraltar-trained persons being recruited to fill posts such as that of Maritime Surveyor. This is the ultimate aim of the initiative, which the Government will take during this term of office to create a School of Maritime Studies. It requires a long-term vision, and the Government have precisely this vision to entice young Gibraltarians to venture into careers, which today are not even considered by them, and to provide basic training at the first rung into the career.

Mr Speaker, I will now comment on the Improvement and Development Fund estimates for Head 103, Tourism and Transport. There are some projects which have been commenced already, and which are part EU-sponsored. They will come to fruition during the course of this financial year. The most important project will see the creation of a new visitor attraction in the Upper Rock, and will mark the first stage in the opening up of the Northern Defences. This attraction will renovate and beautify the area commonly known as Princess Caroline's Battery, including the plateau on which are situated four naval guns. The key attraction will be the opening up of a section of World War II tunnels. Linked with this is the opening of the Middle Galleries.

which will complement the experience, offered within the Upper Galleries. This project will see the development of the first new major visitor attraction in Gibraltar for many years.

The travel industry has responded very positively to the Government's plans for this ambitious project. The industry is keen that there should be new attractions in Gibraltar to encourage visitors to stay longer in Gibraltar and to allow for a wider selection for visitor options. Indeed, the cruise industry in particular wishes there to be a wider choice of attractions so that regular cruise visitors at Gibraltar can have a greater choice of tours offered to them by operators. The tender for the works that needed to be done at the World War II tunnels and the Middle Galleries has just been awarded and works are about to commence. The intention is to open the attraction in early 2002. Tenders are on the point of being invited for a second part EU sponsored project at Nuns' Well which will create a catering and recreational facility for Gibraltarians and visitors alike. This exciting project will again be completed by the end of this year.

Both these initiatives need to be seen in a twin context. On the one hand, the Government are broadening the appeal of Gibraltar as a tourist destination, through the creation of new attractions. In parallel to this, important elements within Gibraltar's heritage are being preserved through making them into visitor attractions. This strategy fits in nicely with the Government's policy of upgrading the way in which our heritage is cared for, and the management plan for our heritage, which is an essential ingredient in the Government's bid to have Gibraltar listed as a UNESCO World Heritage site. I am confident that we will succeed in this regard, particularly given the investment and the forward planning of the Government.

There are other projects, which are now at an advanced stage. The new Sound and Lighting System at St. Michael's Cave will soon be completed and I plan to inaugurate the new programme next month. The further upgrading of the Cave will follow, as part of our management strategy for this key tourist attraction.

Catalan Bay is to be beautified. Phase 1 will commence after the bathing season closes in September 2001. The works that need to be done can only be carried out in the winter months, in order to minimise inconvenience to the general public. In addition to improving the environment for those who live at Catalan Bay, the overall plans for the village will be of benefit to all Gibraltarians who enjoy going to Catalan Bay and will enhance it as a visitor attraction.

The first phase of the works will take in the pedestrianisation of the area round the church, the paving of the lower part of the village and the complete rebuilding of the access to the village centre from Sir Herbert Miles Road, in the vicinity of William's Way tunnel. The second and third phase of this project will then follow during the two successive winters. A further parallel scheme, which will increase the attractiveness of Catalan Bay, and indeed of Eastern Beach, is the Government's plans to stabilise these beaches and to make them safer for all beach goers. This will require the construction of off shore breakwaters, which will slow down the waves which pound the eastern shoreline. Erosion of the beaches will be arrested and indeed the amount of sand, which can be enjoyed by beach goers, will be substantially increased. The details of this programme of beach stabilisation has yet to be completed. The plans are now being worked on, and the intention is to make a start on the works in the next financial year.

As part of this project, the land between Eastern Beach and Catalan Bay will be developed. The Government have a vision for this area, which includes car parking for Catalan Bay residents and beach users at both the beaches; leisure and recreational developments; light industrial use and commercial developments; and some residential development. The final decisions of this ambitious and major project will soon be made, after the various studies have been completed. A public statement will follow thereafter.



In the meantime, the facilities for beach users have been substantially upgraded this year. Changing rooms have been greatly improved and general improvements carried out to the beaches.

Rosia Bay is also planned for development this financial year. This is a private sector project, which will encompass the historic Bay and surrounding areas and will become a focal point for visitors and residents alike.

Finally, the cost of the works to greatly enhance the building at the Land Frontier will be met from this subhead. This was a project, which has taken some time to bring to fruition, as there have been long negotiations with the MOD. The MOD finally ceded some land in order to widen the building and allow the architects to design a new interior which will be welcoming to our visitors, as well as a comfortable environment for the Immigration and Customs officers who need to work there. The refurbishment and improvement of the Land Frontier building is the penultimate project to upgrade all our entry points to an acceptable standard.

The only remaining entry point requiring attention is the Yacht Reporting Berth. The abolition of the Yacht Reporting Berth is imminent. The Government do not consider it acceptable that all arrivals for two of our Marinas need to go through the Yacht Reporting Berth, whereas arrivals for the third Marina go there direct. The present system will be replaced by new legislation to ensure that there is a uniform regime for yachts reporting on arrival at all our Marinas, which meets the requirements of the Immigration, Customs and Port Authorities. This move has been greatly welcomed by the yachting world and our Marinas in particular. When these two remaining projects are completed, all Gibraltar's entry and exit points will have been improved beyond recognition.

With regard to subhead 2, Airlines Assistance, additional provision is being made this year for support to be available to Fly Europa, the new airline which wishes to commence operations

this summer. The airline has now decided that it wishes to fly to Gibraltar from both Manchester and Stansted Airport. An application for these two routes has now been filed with the CAA. GB Airways lodged an objection to this application with the CAA and I am pleased to inform the House today, that following a meeting I had last week with the Managing Director of GB Airways when I explained Government's aviation policy, the airline informed me yesterday that they would be withdrawing their objection. I understand that GB Airways will be making a public statement later today. This will now allow the CAA to consider Fly Europa's application promptly and hopefully allow them to commence operations forthwith. These are two new airports for Gibraltar, and will make it easier for persons living in their immediate catchment areas to fly to Gibraltar. The Government are particularly pleased to see the return of a Manchester service, for which it is considered there will be considerable demand. The support package which has been offered to Fly Europa is identical to that which was offered to Monarch Airlines, when they were enticed to commence their scheduled Crown Service to Gibraltar in 1997, in order to support the Manchester service. Other airlines have expressed interest in commencing operations to Gibraltar, from regional UK airports and from a non-UK European airport. The Government continue in discussions with these airlines. Indeed, one of the particular targets which I have set myself during this term of office, is to increase the number of flights to Gibraltar and the number of airlines offering Gibraltar services.

The Hotels Assistance Scheme is now almost at an end. The aim of the Scheme has been met, and the Government are pleased that during the last 12 months the final hurdle was achieved, the grading of Gibraltar hotels to international standards by an independent, outside assessor has been undertaken. All that now remains is for those hotels, which received a provisional grade to consolidate their product and confirm their grading.

The works on the Motor Vehicle Test Centre are now proceeding in a satisfactory manner. The project was plagued with difficulties with the original contractor who was awarded the tender for this project having gone bankrupt. This has meant that the price of

completing the work has increased, and so has the time for finishing the project. I hope to see the completion of the project in the winter.

Traffic enhancements will include the first phase of the programme to upgrade the public bus service in Gibraltar. This is a manifesto commitment for this and this will be met during 2002. I am in discussions with both bus operators at the present moment and Government will shortly be making final decisions. Once the bus companies have been informed of the approach, which the Government are to take in this important area, I will make a public announcement on the development and the future of the public bus service in Gibraltar. The Government are determined that the service should be second to none, with new, comfortable, modern vehicles purchased to operate a combination of existing and new routes, to provide the kind of service and offering the sort of timetable which meets public requirements.

Work to resurface and upgrade our roads will continue, as has been the case since this Government came into office. I have put in place a rolling programme of work to ensure that all our roads are attended to over a cycle of a period of years.

A new project which the Government will be carrying out, in order to improve traffic management and road safety, is the creation of the Upper Town relief road from the area of Moorish Castle to the top of Willis's Road. This will allow the introduction of a one-way system in the triangle consisting of Castle Road, Willis's Road and this new road which will run behind Tankerville House. This, in turn, will allow for the building of a pavement for school children attending St. Bernard's School.

Funds have also been earmarked for the next phase of the city centre beautification programme, from the area of Library Street to the Supreme Court. This will create a feature at Cathedral Square, where additional trees will be planted and benches will be

provided. The business community have greatly welcomed this next stage of the beautification of our city centre and look forward to the commencement of the works which will happen shortly. This programme of improvements will then be followed in due course by the complete redesign of John Mackintosh Square and the demolition of the Piazza.

There will continue to be infrastructural improvements carried out in the Port. There are a number of important projects which the Government wish to carry out. These include the next phase of the project to resurface the Western Arm and the creation of new berths for Port workers and Agents' launches. With the advice of the Port Advisory Council, I am now considering a number of matters, which will be addressed, in a five-year plan. Prior to 1996, the Port of Gibraltar suffered from under-investment and this is being addressed, in a structured way. Once I have put the finishing touches to the strategy, I will be making a public statement.

Provision has been made for the transfer of the boats now moored at Western Beach to the Coaling Island basin. We are working on preparing the tender documents for the necessary works to allow for the move to take place. The new location will provide greatly improved facilities for owners of small boats.

The final infrastructure programme, which is on the agenda this year, is the Container Transshipment Project. The Government's Transaction Adviser, the Credit Agricole Indosuez Bank, has now received the reports from the two consultants appointed by the Government to carry out the preliminary studies. Mott Macdonald carried out a technical study, examining the different locations where a container transshipment facility can be developed. Ocean Shipping Consultants Limited have carried out a market study, to determine the need for a Gibraltar facility and to establish the kind of volume of containers that would be attracted. Credit Agricole Indosuez is considering these reports and they will be making their assessment to the Government shortly. I have had various discussions with them to consider the strengths, weaknesses, opportunities and threats of this projects. The Government will

soon need to consider the reports and take decisions on the way forward.

Mr Speaker, the Ministry for which I have responsibility has witnessed considerable growth since the Government have been in office, and have enjoyed many successes. This year will see a consolidation of the work which has gone before and the laying of further foundations for a successful and continuing development of Tourism, the Port and Transport, which are important elements of our economy. I look ahead with confidence to the remainder of this financial year. Thank you.

HON J C PEREZ:

Mr Speaker, before I go into my own contribution, I would like to comment on remarks made by the Minister for Health yesterday, in relation to comments made about our term in Office in respect of responsibilities which I covered, which were industrial relations and recruitment. If I am not mistaken, he accused us of cronyism, did he not? Let me tell the Minister that I challenge him to bring evidence of one case of cronyism to this House. I was seriously disappointed with his comments because it seems that because he cannot defend the poor service his department is giving, he has tried to attack what happened before by distorting the truth and it is unbecoming of the Minister. If he wants one example of cronyism he can look at the employment of Francis Cantos as Media Director.

Mr Speaker, in looking at the Estimates of Revenue and Expenditure, one must necessarily look at the funds that are being provided for our Public Services and whether the public is satisfied that these services are being provided to an acceptable standard. We must also analyse whether the systems in place in different departments are meeting the needs of individual citizens. I said last year in my contribution to the budget debate that the broadbrush approach in the implementation of Government policy was not taking into account the needs and requirements of individual citizens. The position has become worse, not better.

In the areas of Social Services, Health, Buildings and Works, Housing and industrial relations, there is ample evidence to suggest that individuals with personal problems turn to the Opposition for assistance because the mechanisms the Government have in place do not provide the service required and in many instances they are refused an appointment with Ministers and they are left out in the cold with no one to listen to them. As in the majority of cases, these people are those most in need, the unemployed, our senior citizens or people on social assistance. There is a general feeling among them that they do not count for anything with this Government, that they are getting the cold shoulder and a very raw deal.

Mr Speaker, my colleagues have or will highlight some cases pertaining to their respective responsibilities. I, for my part, wish to highlight the case of an individual who was retired on medical grounds, went to the UK for medical attention, was found to be fit for work as a result, and had to wait three long years to be told by the Government that there existed no system or precedence under which his medical retirement could be reviewed or revised. This, after being told repeatedly that his case was being looked at positively, creating expectations that he would be reinstated. When they then tell him that he is however free to apply for vacancies within the Government Service, he does this, and notwithstanding the fact that he is a qualified mason who has given the Government over 20 years of service in the department, he is passed by in the selection process by others without qualifications, one of whom, I understand, cannot even speak English or Spanish. It is cases of this nature, where in my view a great injustice is being committed, that are being ignored, and as my Colleague, Ms M I Montegriffo said, swept under the carpet. In many instances this is leading to litigation whereas a more humanitarian and caring approach on the part of the Government would probably suffice in most cases.

Mr Speaker, Government have spent thousands of pounds commissioning reports into the Port Department, the Electricity Department, the Post Office and the Buildings and Works

Department. Although we have not had sight of the reports in question, except the summary of Buildings and Works, which appeared in the Iberia News, we do know from questions answered in this House, that the implementation of major aspects of these reports are now being discussed with the respective trade unions.

There is no alternative to friendly and constructive relations with the workforce. The improvements to the public service can only come about if Government come to terms with the requirements and aspirations of those people working in those departments. We do not need experts to arm ourselves with conclusions which we could have easily arrived at ourselves, or which are totally wrong for our situation, taking into account Gibraltar's unique circumstances.

The Hon Mr Netto has spent five long years confronting his workers instead of trying to seek their co-operation, only to find that now an expert tells him he must come to terms with his workforce. As a result the service to the customer has eroded during the five years it has taken him to arrive at this point.

Mr Speaker, I do hope that the end result of these negotiations is not one in which job security is thrown out of the window and safety standards undermined. That would be the last straw that broke the camels back coming from an ex TGWU Branch Officer, that even opposed that community officers should undertake odd jobs for senior citizens who could not do them themselves or afford to pay for the service. The past has a habit of catching up with people sooner or later.

Similarly, we have seen a decline in the service provided by the Post Office. I do not think we need a costly report to tell us that the new housing estates coming into stream would need a reappraisal of the number of postal workers employed and the systems in place. People have been subject to an inferior service because the Government have not done what the Minister said yesterday he was now going to do. For the first time he has

agreed that the Government are prepared to put more resources into the service as long as the service is done. He said, "The Government do not mind putting more resources as long as we get the situation solved." The workforce has been asking for more resources for over one and a half years. Perhaps this is why, despite the recommendations of experts, the negotiations of the Electricity Department and the Port Department are dragging on for so long, because at the end of the day whatever reports say or recommend, things must be done with the acquiescence of those on the job and the sooner the Government learn this lesson the better for Gibraltar and for the standard of public services provided.

I heard the Hon Mr Holliday just say that he does not understand the suspicions of the people in the Port Department. He should ask his Colleague sitting beside him, the ex TGWU Branch Officer. He instilled a suspicion in the workers of the Port Department as Branch Officer, accusing us when in Government, of wanting to do what he is now doing. How can he not expect them to be sceptical about Government plans when they came to my office and accused me of wanting to create a Port Authority, I said "No, I have no plans whatsoever". And the person that leads the revolt is now sitting in the Government that is proposing the Port Authority to them. That is why they are suspicious. Mr Speaker, all this brings to mind, the announced proposed take-over of Gibtel by Gibraltar Nynex and the industrial problems this could create if delicate and sensitive matters are not dealt with properly. I move my sights from the Minister for Telecommunications to the Financial and Development Secretary

The Opposition believe that Gibtel and Nynex, despite the shareholder take-over, have a future, independent of each other, in the liberalisation that will undoubtedly follow and which has been announced already. We believe that a merger of both companies would be a mistake. We have taken note of the intention of Gibraltar Nynex to buy out the whole of the shareholding of Gibtel, the part of BT and the part of Government, but must express concern that simultaneous to this intention, we have read in a report in the Financial Times that Verizon intends

to relinquish all its assets in Europe. I hope that the Government seek firm assurances from Verizon as to their long term commitments and intentions in Gibraltar before any take-over takes place. Having said this, I believe it is important to impress upon the Government, the great need that there is to become competitive in telecommunications and therefore the strong case that exists for charges to be reduced drastically. I know Ministers have mentioned that there are some new things coming in, but what I do not think we have is a drastic strategy on where we have to go and what the objectives are in this case.

Last year I reminded the House that in the short space of three years, Nynex and Gibtel together, had paid dividends to shareholders amounting to £10.5 million. This year, another £3.5 million have been paid with a projection of another £3.2 million for the coming year. Some £17 million in five years if the projections of next year are met. This, notwithstanding call back services, notwithstanding the lost incoming international calls from Spain, notwithstanding the unfair competition Gibtel is subjected to by the Spanish refusal to extend the Roaming Agreement for mobile telephony, and notwithstanding the degree of competition that already exists in the market.

I repeat my call for Government to exert their influence through their shareholding to reduce charges. By so doing, they would be sharing part of the benefits with their customers, positioning the companies in a competitive situation for full liberalisation, making Gibraltar a more competitive base for potential business customers and steering the cost of telecoms in Gibraltar towards the average European norm.

Mr Speaker, internet is fast becoming a way of life. If the Government are really serious, like the Hon Mr Azopardi said yesterday, in attracting companies with e-mail and things related in that sphere, we have to look at what other jurisdictions are offering customers. In many instances access to the internet is free and only usage is paid. In other instances, the fees for

access and usage are much more attractive than what Gibraltar can offer. I favour certainly free access to the internet, but for that to happen the Telecoms Regulator would have to demand from the network provider, in this case Nynex, that a percentage of income from usage should go to the other competitors in the market, in this case Gibnet, obviously related to the usage of each company's customers.

It is, in my view, not enough for the Government to say that they have expectations of cheaper telecommunications. There are question marks still when the take-over takes place. Will Nynex expect to recover the cost of the take-over before it decides to reduce charges? If so, would that not be too late for attracting certain businesses to Gibraltar and for addressing the concerns of today of customers in general.

Mr Speaker, notwithstanding our repeated pleas from the Opposition benches, we have seen no commercial strategy on this great important matter for Gibraltar. If we add to this the recent change of attitude on behalf of the Chief Minister over protecting Gibraltar's '350' international code, we see that this completes a picture of a lack of cohesive strategy, which could harm the potential of providing our own telecommunications in the future.

In February, the strategy was clear. Sometime before, we had arrived at a point at which the cases put by the two companies had become political because Telefonica, responding to the Commission, had openly confessed what we all knew, that the questions surrounding Gibraltar were determined by directions from the Spanish Foreign Ministry and not by them. This resulted in the Commission asking Britain and Spain to find a solution. The Gibraltar Government were being consulted by the Commission as well.

As far back as 1998, the Commission proposed the adoption of the UK '0044' code for Gibraltar. The companies, reluctantly, were prepared to accept the '0044' code for Gibraltar only. The Gibraltar Government were not prepared to accept this. It was

not politically acceptable to the Government to use their choice of words at the time. This was still the position in February 2001, when the Government described the call of the Chamber of Commerce for the use of the '0044' as "unhelpful", and when the Chief Minister told the House that he would only accept the '0044' code for calls from Spain as an interim solution provided by the European Commission once legal proceedings had been initiated against Spain. "Interim yes, political agreement no", he cried in this House. In February, both sides of the House subscribed to the same view. In May, however, the Chief Minister tells us that he still defends the same position. When asked to expand on what this position was, as he understood it, he goes on to explain that what was "politically unacceptable" to him in 1998 and in February 2001, had all of a sudden become acceptable to him in May. Because we pointed out his obvious contradiction he accused us of being "dinosaurs" and of being inflexible. Trying to make believe that his position had not changed he went out of his way to justify a change of position. Members will recall that he told us that it was wrong for Gibraltar to try and force a big and powerful party like Spain to drop their pants.

I ask myself, if we are dinosaurs and inflexible for still believing in May what we believed in February, was the Chief Minister himself an inflexible dinosaur in February? Why was he prepared to force that powerful party to drop their pants in February, according to him, to the detriment of Gibraltar's interests, and he was not prepared to do it in May. As the Leader of the Opposition pointed out at the time, could it not be that what happened was that the Chief Minister lost his pants altogether, metaphorically speaking of course.

When it is suggested that he might have capitulated under pressure from the Foreign Office he tells us that he had a lot of trouble convincing the Foreign Office to accept this new situation. So he was against it until February and then, something must have happened, we do not know what, but he suddenly had to convince his pals in Whitehall that what was a miserable and awful idea two months before had become a brilliant one all of a sudden.

We have heard in the House yesterday, Mr Speaker, that it seems that not even this is acceptable either to the Foreign Office or to Spain or to both. If we have a reflection of what has been said in the press, it seems that the Foreign Office continues to ask for extra numbers notwithstanding the generous offer that the Chief Minister has made. If I am not wrong in understanding what he said, there seems to be or he suggested that there might be an even bigger problem with telecommunications than that of the numbers. Or perhaps he was referring specifically to the problems with the Foreign Office who do not pay enough attention and give enough urgency to the issue.

Mr Speaker, indeed there were particular problems over line availability but these were able to be circumvented by what Members described as "shadowing numbers". An emergency measure but one which satisfied fully calls within Gibraltar and to and from the rest of the world except Spain, although calls from Spain were possible too but a bit more complicated and awkward. These numbers can be used in the fixed network too and indeed the possibility of having roaming for Spain, not available for normal mobile numbers was also on the cards. Not a perfect solution, but one which would permit Gibraltar to stand its ground and allow the Commission to act against Spain once and for all.

I hear the Hon Mr Britto today complain about the Commission not acting against Spain. The Commission must be as confused as the Opposition are over the changes of attitude and position of the Government. Why surrender this position? There was and there is no need for it. By appeasing the Spaniards over and over again, all we do is increase their appetite for more. We are in the right and they are in the wrong. There is no logical explanation for wanting to give up this battle, which Gibraltar could and can still win. Such a victory would, I am sure, have served as a deterrent for Madrid to stop blocking our rights within and outside the EU.

We do not know how this whole saga is now going to conclude. It could be, as I have just said, that Spain is not even satisfied with this concession and is now wanting more. Whatever happens

nothing will be better for telecommunications in Gibraltar than for the Commission to have initiated proceedings against Spain, and for the Commission to have proposed a method of interim relief whilst the case was heard, however powerful a neighbour is. Does the Chief Minister think that now that the Spaniards have heard him say that we should shy away from forcing what is right because of their strength and power, they will now not threaten to extend that strength and power against Gibraltar at every conceivable moment over every other issue. Perhaps he has hopes that the Palacio de Santa Cruz do not follow the proceedings of this House and he can roar at them in public in the future limiting his meek squeaks to this Chamber and to the confines of his Office at No.6 Convent Place.

Mr Speaker, if as a result of the Foreign Office not playing ball with the '0044' code, if as a result of the lack of progress of the Chief Minister's initiative, the Government were to adopt the same stand as the one that they were defending in February, the Chief Minister can be assured of the support of the Opposition because it is that position we think is in the best interest of Gibraltar and we would defend it and we would support it, if that were the position today.

Certainly the numbering issue does not address other matters such as is the refusal of Telefonica to afford a roaming agreement with Gibtel of the difficulties regularly encountered in providing leased lines across the frontier for business customers et cetera, but all these matters would easily have been resolved from a position of strength rather than a position of weakness. They are matters which will all impact on Government revenue in the future directly or indirectly. They will have a great bearing on maintaining our autonomy on telecoms within the EU, even when a single EU code is introduced.

Before I finalise my contribution on telecommunications, I want to try and impact upon Government Members the quite unnecessary and sometimes totally unjustifiable telephone disconnections that take place. At certain times, the second bill has not arrived and customers are unaware that they are under threat of

disconnection. It is, after all, a telephone company. What trouble or bother or expense is there in phoning the subscriber and allowing a period of 24 to 48 hours to pay any arrears owing and avoid a disconnection. Let us try and be more caring and considerate of a customer that has allowed a distribution of dividends amongst shareholders of nearly £17 million in five years. The sooner the arrogance of a monopoly provider is replaced by a more commercially orientated customer conscious attitude, the better for the long term prospects of keeping that customer base when full liberalisation comes into force.

Mr Speaker, I now turn to the Electricity Department where the Estimates show little change from that of previous years other than an increase in the price of fuel, for which supplementary expenditure was voted in this House last year. There are two things which I think are worth mentioning. The first is that the Government confirmed in answers to questions, that the contract with OESCO runs out in the year 2004. Whilst I have no knowledge on whether the report commissioned by Government made any recommendations as to the future of electricity generation, it is my belief that decisions urgently need to be taken over whether the contract with OESCO is to be renewed or whether Government intend to increase their own generating capacity. We must remain conscious of our need for self sufficiency in essential services and plan well in advance for our future needs. Already the timetable is a bit tight as it is.

The second thing I wish to draw the attention of the House to is the Controller Link Project. Taking into account the explanations given at the last meeting of the House for the delays in the project, it is still unacceptable that the project should have been announced in 1996, modified and again announced in 1997 and that in June 2001 we are now told that the project could be completed by the end of the year. When it was re-launched as a modification of what we were considering in 1995, the Minister said that SCADA would allow remote re-closing of circuits and therefore reduce out take times in the event of power failure. The same as the project I was looking at in 1995. We are now told that the project is much more complicated than the one envisaged

during my term in Office. That it is not something that one buys off the shelf and that it needs to be designed and tailor made for the customer. The manufacturers, we are told, have problems themselves. My question is, Mr Speaker, is there no recourse in the contract with the manufacturers for the unreasonable delays in completing the project? Let us hope that the end product is one that will give us what we need and that it is not the case that we are the pioneers and that the manufacturers are testing this equipment on us, as has happened in the past. The Minister expects the project to be in operation by the end of the year. We hope he is correct this time round.

I note that in the Improvement and Development fund under Head 105(3), the estimate for switch gear replacement was £250,000 and the forecast outturn was £64,000. I will want to know at the Committee Stage what the reason for this has been, given that we are estimating a further £240,000 for switch gear replacement this year.

Mr Speaker, in 1996, the Hon Mr Britto, told the House that a review of the staffing requirements of the Highways and Sewers Section was underway. In the Budget of 1997, the Hon Mr Holliday, told us that he was to conduct an employment audit. In 1998, when no review or audit had taken place I accused the Government of wanting to run down the department deliberately in favour of contractorisation. I provoked the wrath of the Chief Minister who suggested that I was not a very credible hero to espouse the cause of those working in the section. He said "What we are having to do is give it additional labour resources at least to raise its complement to a minimum viable labour unit". The Chief Minister said I had no interest in the truth. Yet the truth in 1999 was that despite the commitments of Government Members no labour resources whatsoever had been deployed to the section and contractors had been granted work to the value of £2.5 million. Last year there was no change in the position. This year, in February, when asked whether the Government had done away with the Road Section altogether, the answer was a blunt

"No". Yet there was an admittance on behalf of the Chief Minister that a proposal had been put to the Union for those people in the Highway Section to be absorbed by the Sewers Section. When I pointed out that this would do away with any sort of in-house capability for minor repairs et cetera, the Hon Mr Holliday said that such a unit would need to exist but that a complete Highways Section was no longer envisaged.

Mr Speaker, I put it to the House that even wanting to maintain an in-house capability would need a certain amount of recruitment over the levels of industrial employment available today. One cannot understand the proposal of the Union for them to be absorbed in the Sewers Section if even a small in-house capability unit needs more staff than the eight or 10 available today, there are 22 industrials with about 14 supervisors.

It has taken the Government five long years to admit to their intentions, which were transparent to all, all along. Having attacked me for pointing out the obvious, today we see how contractors, particularly AMCO, who seem to be the most successful contractor in respect to roads, are granted one contract after another, whilst the section is earmarked for total annihilation. An area which could well have opened up job opportunities for those Gibraltarians with lesser skills who do not make it through further education. As I have said before, what will now happen with all the supervisory staff? They are not told, they are just kept in the book. What will happen with all the equipment purchased there? There is an enormous amount of equipment which is just rotting away because it is not in use, because it used to be used for the construction and major repairs of roads. After five long years we can see who it was that was telling the truth and who was the true defender of the interests of workers in the department, despite the unprovoked attacks on me by the Chief Minister.

I now turn to Traffic and Transport. Often when I have asked questions of public transport in this House, the Chief Minister has criticised me for supposedly doing nothing about it during my years in Office. For the benefit of those with faulty memories, let



me say that despite our Government having other priorities in infrastructure, housing, education, et cetera , public transport did improve from the state it was in when we came into Office. A negotiation with the operators allowed for a modest increase in fares and this was accompanied with a replacement of some buses on route and the introduction for the first time, of a fare for senior citizens. The negotiation also regulated the number of buses from the frontier to the Market Place and later opened new routes, with the introduction of double deckers from the frontier to the Boulevard, servicing Watergardens, Varyl Begg, Gib V, Harbour Views and the Safeways Supermarket.

Whilst these modest changes were taking place we had vociferous calls from Government Members when in Opposition, telling us of the imminent collapse of the service with stories of buses with leaking roofs and people having to use umbrellas inside buses. One would have expected immediate action from so concerned an Opposition finding themselves in Government. Not so. The lie to their propaganda has been borne by their very own inactivity in this area. Everyone would agree that there is ample room for improvement in our bus service. But we have seen none of it in five long years.

Since 1996 I have repeatedly been asking Government what they intended to do in this area. for two years they fended off my questions by suggesting that experts were to be engaged to undergo a comprehensive study of public transport in Gibraltar. Then, in answer to a question, there seemed to be a lapse in memory in the Government benches, and they said that the study was an in-house one and not one conducted by experts. Now we come to June 2001, and the only thing that has happened is that the two bus operators who today run the existing routes have put their own views to the Government. The Minister has said today that he has expectations that the improvements will be seen this year. I hope so too but from what one is hearing the only thing that is going to happen is that certain buses or all the buses are going to be replaced, which is what used to happen irregularly in the past.

Certainly some of the problems related to public transport could perhaps have been addressed if there had been a more cohesive and comprehensive strategy of traffic. The first two or three years of this Government were spent with declarations of intent over new traffic arrangements for the Upper Town area, which would have proved a disaster for Gibraltar. The sign-posts were erected and stood there covered in plastic as a symbol of incompetence and despotism, given that they had been warned by many, including us, that the plans would prove disastrous for pedestrians and vehicular traffic alike, and that they should be abandoned. Alas, it took them about 18 months before the signs came down one day and the impending disaster was averted.

The loss of the road at Casemates, now irreversible, caused considerable traffic difficulties in the Waterport area and led to more vehicles using Queensway. This was somewhat alleviated by the new arrangements at Glacis, although I must point out once again the danger that exists for traffic coming from Glacis Road into Winston Churchill Avenue, particularly as it concerns foreign vehicles unaccustomed to our traffic situation.

We have been promised plans for the decongestion of traffic at Queensway certainly between Europort Avenue and Waterport fountain. We have been promised new traffic plans for the Upper Town area, a glimpse of which we have heard from the Minister today. Mr Speaker, all we get is answers that these matters are subject to studies and examinations but very little action. Whilst traffic chaos continues rife, there has been a marked increase in the issuing of parking tickets and an enforcement policy in Willis's Road at night, which tenants have been complaining about and petitioning the Minister and the Traffic Commission about.

We now hear that the Government, having got themselves in a fix over parking at the site in which they intend to incorporate St Bernard's Hospital, have provided for parking after the event, that is after they paid for the building and decided to move St Bernard's into Europort, by getting the developers of Euro Plaza to provide 100 parking spaces for the hospital. We await anxiously to see what they intend to do about the traffic

congestion created in the area as a result of the move of the hospital. Rumour has it that a road connecting Europort with Coaling Island is being planned. There does not seem to be funds available this year in the Improvement and Development fund in the bulk sum for Highways. Indeed there does not seem to be any funds for the commencement of this one way system that the Minister has mentioned today in the very Upper Town area, in the area of Willis's Road, which I hope those plans are made public and are available for public comment before the Government decide to proceed with them, so that anybody that has any constructive idea to put to the Government may be able to do so.

Mr Speaker, the annual MOT tests continue despite this being a totally unnecessary ordeal to comply with EU requirements, yet there continues to be long delays for bookings. The move last year to link the expiry date of the road tax with the purchase date of the vehicle, means that in some cases the cost of insurance, road tax and MOT all come together in one date and is proving a burden on many motorists.

There were grounds last year and there continue to be grounds this year for the total abolition of the road tax, which would only cost the Government some £1 million and which would go a long way in alleviating the annual cost of owning a motor vehicle and reduce costs of small businesses with vehicles all in one go. I accept it was not a policy included in the manifesto of the Government, but it is one that makes a lot of sense in our view, particularly against the background of the annual requirement for an MOT test.

Mr Speaker, we look forward to the introduction of the EU format registration plate and cannot understand the delay in its implementation.

I have to mention once more the position of the Government in relation to the parking restrictions at the entrance to Jenny's Nursery at Coaling Island. Here again, is another example of what I feel is the absence of understanding on the part of the

Government to a problem which can be avoided altogether. I am sure that a conciliatory approach rather than one of hostility and arrogance can sort out what could be a very controversial decision and one which, I believe, should be based on safety considerations alone. The non-use of three parking spaces between the hours of 9 am and 6 pm, particularly in the area we are talking about, should not prove to be a matter of so much controversy, I do hope that when Government do have this small piece of land transferred to it by the MOD, they will ensure that the existing restrictions remain to the benefit and safety of users of the nursery.

Finally, on traffic, I would like to remind the House that we still have Spanish policemen questioning the validity of EU approved Gibraltar issued driving licences and that despite the Foreign Office having taken the matter up with the Authorities in Madrid, these cases continue to occur and our drivers are inconvenienced, sometimes having to pay fines and having the vehicles temporarily confiscated. I believe, that the Government, as the issuing Authority of the licence and the guarantor of its validity, should at least compensate drivers for any fines incurred and any cost related to the recovery of the vehicle and that the Government should then seek recovery of those sums from either Spain or the EU. People have a right to drive into Spain confident that the documentation issued to them is valid, and it is up to the Authorities in Gibraltar to make good their inconvenience whilst Madrid is taken to task.

I now turn to the subvention in this year's Estimates for GBC. In subsequent years the Hon Mr Britto has talked about his ministerial responsibilities related to Broadcasting. In this context he has given the House a run-down of the live events broadcast by GBC on television including the televising of the Miss Gibraltar Show, as if he had personally anything to do with it. This is why we were surprised that last time at Question Time, the position of the Government was, when I asked a question of the number of employees in GBC, is that they have no responsibility whatsoever for giving me the information. It must be that they had a change of heart because both the Chief Minister and the Hon Mr Britto,

have actually given the information, which I sought the last time, freely without me probing them to do so. So I presume that after having wanted to distance themselves from the failure of GBC to be able to raise revenue and wanting to distance themselves from the fact that we had to vote £500,000 for GBC in this House, they have taken a fresh view on it and now they come back and are prepared to take responsibility, which I think is what they ought to do. If there is a failure in the raising of income and raising of revenue from advertising, the Government must share the responsibility with the Corporation and not try and point the responsibilities somewhere else.

Mr Speaker, we now have available the accounts of the Corporation for the year before the relaunch. One would clearly need to look at the first year accounts after the relaunch, which we are told today, should be with us soon, to compare the increase costs with the poor showing on revenue. One would also need to know what this year's business plan is in order to gauge whether there is room for improvement on the income side and whether the situation on income can be reversed and to what degree. I believe that the estimate of £950,000 subvention is not a true reflection of what television would cost the taxpayer this year and that we will be faced with another supplementary expenditure bill before the year is out. The level will obviously depend on how successful or not the Corporation can be in raising revenue from advertising, but I do feel, that however well they may do, will not suffice this year to close the gap, although we might see a trend developing, I do hope that it is true and that the optimism expressed this morning by the Minister on the new method of raising revenue actually works.

Mr Speaker, Government Members used to criticise us, when we were in Government, for attempting a streamlining exercise with the co-operation of the then Board, the management and the staff, in order to cut the cost of running GBC. That situation, which we were able to achieve after a lot of effort, has now regrettably been reversed to a considerable degree and with the acquiescence of the Government.

Whilst there has been partial success in providing more community programmes, I believe that what the public need from GBC is solely a community programme role and that this must be the ultimate objective in the lean outfit, with desirable targets set out as objectives to attain. It is on the community side that we must focus for audience captivity and for advertising revenue, even if this means that we need to cut our length of broadcasting. That would have been a sounder basis on which to have approved a relaunch of television.

Mr Speaker, we have heard little today about the future of waste disposal in Gibraltar. We continue to take our refuse to Los Barrios, and we know from the Government that there are two proposals under consideration for the running of the Incinerator Plant, and various other proposals for other forms of refuse disposal. The workers at the Plant continue to be employed whilst the decision making process takes its course. Over one year has now passed since the Incinerator was taken over by Government. We believe it is time that decisions are taken so that Gibraltar's self-sufficiency in refuse disposal is restored.

I feel I need once more to repeat my call to the Government to designate with buoys a strip of sea in parallel to the Harbour Views Promenade and to allow swimming in a restricted manner. Already this summer, and given that steps to the sea were constructed by Government, there are citizens using the area for swimming, even though there are signs erected prohibiting swimming. The danger in not demarcating the area with buoys is that this channel is constantly used by small craft and tugs and this poses a great danger to unrestricted swimmers. The whole promenade is very unused because of the absence of shaded areas and it could become a very popular swimming spot if Government were to come to their senses and give in to what is a logical conclusion of having erected the steps leading to the sea in the first place. Even a well known GSD supporter has written a letter to the Chronicle concurring with the view I have expressed in this House on various occasions and which I am repeating today. After so much was said in the House about the loss of the Montagu Sea Bathing pavilion in the past, to make way for much

needed housing and development, here is an opportunity to provide public swimming facilities practically in the same area, and the Government's obstinacy is depriving many citizens of what could become a swimming and recreational area during the summer months. We hope they are able to revisit their thoughts and make a most welcome U-turn on this matter.

Mr Speaker, if I may, I now turn to the Gibraltar Government lottery. This is the first year that the lottery has provided no income to Government. Indeed it has recorded a loss in the Estimates of £113,000, we are now told it is £12,000 or £13,000. I ought to remind the Hon Mr Britto, that when the results for 1992/1993 showed £748,845 and 1993/1994 showed £711,722, it was the Minister when in Opposition, who used to criticise the Government and call for further changes on the lottery structure to take place. In 1998/1999, when the result was the lowest for some years, £89,000, I again reminded the Minister of the criticisms he had made in the past and asked what he was doing about it.

The previous year in 1997, the Minister stated that he was about to hold a series of meetings with the agents, operators, sub-agents and the Lottery Committee. A year later we were told that nothing concrete had developed out of those meetings other than the possibility of appointing an external expert to undertake an in-depth study of the Lottery. We were told in the House in 1999 that this idea had been discarded because of the high cost of the consultancy.

Mr Speaker, when in March 1993, the decision was taken to replace weekly draws by fortnightly draws, this was done on the advice of agents and sub-agents, who by that time were predicting a fall in sales as a result of the major prize of £50,000 being uncompetitive with those of lotteries in Spain to which people were increasingly subscribing to. The change was done on the back of a report by the Statistician who had concluded in 1991 that on an average return of tickets of 24 per cent, the Government would expect to receive £18,800 per week on prized tickets. The view of vendors and agents was and continues to be

that if that change had not taken place the number of returned tickets today would be even greater. At the time the Hon Mr Britto called for further restructure, without specifying what form this should take, and claimed it was wrong for the Government to win prizes out of the unsold tickets returned. I refresh his memory on this. I remember telling the Minister that I could not help being lucky winning prizes, certainly he seems to be unluckier than I was for the Government.

In 1994/1995 I told the Minister that whilst further changes were not discarded, it was felt by all concerned, the Lottery Committee, the management agent and the agents and vendors, that another change so soon after the previous one, could prove detrimental to the long term prospects of the lottery and would not be well received by customers. He was then calling for changes. Since 1996, he has had ample time to make all these changes he was so eager for me to make and he has made none.

I take note of the comments made by the Auditor in his last report that since 1993, when the two-weekly draws commenced, the lottery has earned accumulated surpluses of almost £3.8 million, an average annual surplus of about £540,000. Since in 1998/1999, the result was in the region of £89,000, the Minister should have then put his imagination at work and brought in some of those stupendous ideas he claimed he had back in 1994 and 1995.

The reality is that this year, for the first time since 1993, there is a loss instead of the average surplus of £540,000, and it is the responsibility of the Government, and particularly the Hon Mr Britto, to tell us what they intend to do about it, although I do take note. I have heard this morning, that he intends to open up the lottery for tender, I presume, because the contract of the present managers runs out in the year 2003. I believe that well in advance of the year 2003, he ought to try and attract the proposals so that by the time that comes, we know where we are.

Before I conclude, Mr Speaker, let me just say that I have only made a passing comment on the Post Office and the Port

Department because their role is being reevaluated and we look forward to the conclusion of the negotiations with the workforce and an explanation by the relevant Ministers on what that new role will entail and what improvements the public may expect.

As to the Fire Service and the Prison, both again under my list of responsibilities, there is little to say since there is little or no change in the Estimates and their performance continues to be of the standard derived when we were in Office. I did, however, remind the hon Lady last year, that the GSD had called for a new site for the prison when we were in Office and five years later, they are no nearer building a new prison than we were, despite the heritage commitments of the Hon Mr Azopardi. Whereas they made assertions from the Opposition, which could have been interpreted as promises and commitments.

I would like to digress here and remind the hon Lady, it is something I had under Traffic and Transport that I have missed, that she did say that by Easter, the bus service for senior citizens would be operational, and I do not know whether there have been delays as a result of the discussions by the Hon Mr Holliday and we will see a more comprehensive picture, or whether this is an independent thing and the delays are as a result of other issues.

As to Lyonnaise Des Eaux and the Gibraltar Philatelic Bureau, the joint venture companies which the Government criticised when they were set up. On the former we have heard during the course of this year of the new reverse osmosis plants being installed, which are expected to come into stream in July. This will inevitably help to maintain our self-sufficiency in potable water supply.

As to the latter company, I see in the accounts that it is keeping to its targets of income to Government and must congratulate them for their efforts and achievement in producing the stamp for Her Majesty's birthday in record breaking time and making it into the Guinness Book of Records.

Mr Speaker, I end my contribution.

The House recessed at 1.15 pm.

The House resumed at 3.05 pm.

HON DR J J GARCIA:

Mr Speaker, there are many people who will be disappointed with this budget and who probably expected more. This has been in a sense a flat and boring budget. It is also clear that the only data that the Opposition have, points to a lack of growth in certain key sectors.

The Government claim the sole credit for everything that is positive at the same time as they blame others for everything that is negative. The overall guiding consideration which dictates everything that they do is the number of votes that a given line will win them or lose them at a given moment in time. It is significant in this respect that when describing the incinerator, urban waste water treatment and sewage yesterday, the Chief Minister himself described them as "electorally less value investments."

What we have in Gibraltar is a Government that shift like quicksand and that change like a chameleon. This is a complicated and intricate process which works in several phases in a pattern that regrettably has now become abundantly clear. In the first phase the Government take a stand and issue belligerent press releases purporting to defend Gibraltar's interests. Very often, these tough sounding statements leave an exit hatch open in the small print in case there is a need to retreat through the back door. The second phase involves behind the scenes discussions with the British Government, who may or may not choose to involve the Spanish Government in the matter. This is quickly followed by a realisation on the part of the GSD Government of what is attainable, as opposed to what would be politically acceptable and what we are entitled to have. Phase three involves selling what is attainable to the electorate in Gibraltar even if this involves taking the opposite position which was adopted by the Government at the start. The fourth and final phase consists of rubbishing anyone who may dare to have the

audacity to point out that what they have ended up doing is not the same as what the Government said at the outset. I have no doubt that we will see more of this when the Chief Minister does his summing up at the end.

I regret that this chameleon approach to politics is a pattern that Gibraltar has seen all too often. For example, as my hon Colleagues have already mentioned but I think it is important to mention again in case there are different people listening now, we were told that the fishing agreement would not last for one more day if the queues at the border continued. Mr Speaker, we all know what happened with that. We were told Spain had to be forced to accept Gibraltar's identity card through the courts if necessary and then they back down and produce a new card which meets with the demands of Madrid. We were assured that rulings of Gibraltar's courts would be honoured and accepted by Spanish courts, only for the Supreme Court of Spain to throw out a judgement recently because it came from Gibraltar whose court jurisdiction they do not recognise. Gibraltar was told that accepting the '0044' code for calls from Spain only was not acceptable politically to the GSD Government, and then, as per phase three in the code of chameleon politics, which I have just described, it suddenly became acceptable. This is an absolute political hypocrisy. All these things are a matter of public record. They say one thing and then do something else. They sound tough and then they act weak. The key is to measure the actions of the Government by what they do and not by what they say as very often the two are different things. At every stage attempts are made to cloud the issue, to confuse and mislead public opinion and to pretend that whatever is demanded by others through the Foreign Office in London is what the Gibraltar Government wanted to do all along. They try to convince us that, what was bad a year ago is not so bad now, even though what they themselves once rejected is what more than once they have ended up having to accept. We only have a glimpse of what appears to be going on behind the scenes.

Mr Speaker, they negotiate with a megaphone in one hand for domestic consumption and with a white flag in the other to wave at the Foreign Offices of London and Madrid. It is profoundly regrettable than on so many issues where the Government and the Opposition, the whole House of Assembly, have stood solidly together defending a wider Gibraltar position and a wider Gibraltar view, it is disgraceful that the Government have broken that unity unilaterally.

I will now proceed to look at the departments in my parliamentary portfolio, which are Trade and Industry and Tourism. There are a number of areas where the Opposition will have queries at Committee Stage. I will proceed to list some of them in order to give some advance notice. In terms of revenue, Other company tax at Head 1 subhead 3; Trade Licenses at Head 4 subhead 2; Gaming Licenses at Head 4 subhead 5; Company Registration Fees at Head 6 subhead 37. The tourism site receipts in general, which the Minister has already alluded to in his address, at Head 6 subheads 39 and 40.

Moving to the expenditure side, this would be, Head 6 subhead 1(a) Salaries, Head 6-A sub-head 5 General Embellishment, Head 6-A subhead 7 Official Functions, Head 6-A subhead 8 Marketing, Promotions and Conferences, Head 6-A subhead 9(c) Apes Management Health Care, Head 6-A subhead 12(a) Running Expenses.

Additionally, there will also be queries at Committee Stage in relation to the Trade and Industry budget. Some of these are at Head 7 subhead 1(a), (e), (i), (m) all relating to salaries. Head 7 subhead 6 Marketing, Promotions and Conferences, as well as Head 7 subhead 7 Contribution to the Financial Services Commission. The marketing budget of the finance centre division itself at Head 7 subhead 14 will be another query.

Mr Speaker, in his budget address last year, the Chief Minister attributed what he described as the healthy state of the economy to a number of factors, including "the growth in the offshore gaming industry and the success of the Cammell Laird operation

in Gibraltar". At the time the Opposition warned that the arrival of betting companies in Gibraltar had more to do with the decisions taken by the Chancellor of the Exchequer in Britain, than with the Government of Gibraltar. The Government, as they have us accustomed, took the credit for the boom. It is unfortunate that we now find ourselves in a more gloomy position following the changes made to the way betting is taxed in Britain. We already know that some leading operators will leave Gibraltar and there may be a knock-on effect, which this may have. Although there are indications that buyers may be found for some operations, the Opposition are nevertheless concerned for those presently employed in those firms who have said they are leaving. We also hope that job security at Cammell Laird's Gibraltar operation will be improved in the new set-up, although we have not known the extent and nature of Government involvement until now.

The Government should be more careful in trumpeting and over-playing successes which have little to do with them, as they risk being blamed when things turn sour, and I am referring to the betting scenario. It is also a sorry state of affairs to read reports indicating that the wine factory, which has been paraded by the Chief Minister internationally, although he has recently stopped parading it, as one of the symbols of economic diversification and success, should also be in difficulties. The Minister for Trade and Industry said in his budget speech last year that his intention was to develop policies and to attract commercial projects and finance centre institutions to Gibraltar. We also have to make sure that we do not lose those that we already have.

It is important in all this that the Government consult with their social partners. Last year at this time the Chief Minister told the House that the Government relied on their help, guidance and support. The representative bodies like trade unions, the Chamber of Commerce and the Federation of Small Businesses, he said, participate actively, meaningfully and constructively in a series of councils. These include the Tourism Advisory Council and the Labour Advisory council. The Chief Minister went on to say that "through these mechanisms there is a genuine process

through which not only do social partners get the opportunity to make their views known to Government, but actually to participate in a direct and meaningful manner in the formulation and implementation of Government policy." A very grand scenario were it not for the fact that in answer to questions in this House, we find out that the Tourism Advisory council met only three times in 2000. This year, up to the time of asking the question, it had met twice, once in February and once in April. It is not the only Council that suffers from a shortage of meetings. The Labour Advisory Council also met only two times in 2000. The Economic Advisory council four times and the Health and Safety Council four times.

It is not very clear how these bodies are supposed to perform the grand functions that have been ascribed to them if they meet so rarely. Perhaps, to quote the Government, they participate "actively, meaningfully and constructively in a direct and meaningful manner" by meeting in spirit instead of in substance or by a hitherto unknown mechanism of remote control. These Councils that were so important last year, have scarcely been worth a mention this time round. The point I am making is that all is not what it seems and that when one looks at what the Government say and compare that with what actually happens, very often a completely different picture emerges.

Mr Speaker, there are a number of issues in relation to the business community where more needs to be done. The cost of doing business in Gibraltar is too high and remains too high. Business confidence in the wholesale/retail sector has collapsed. The Chief Minister mentioned yesterday the latest survey results published by the Chamber of Commerce. He omitted to mention that these also show that only 10 per cent of firms answering the questionnaire in this sector expected this year to be better than the last. This is the lowest ever level of business confidence for this sector of any survey. It is not enough for the Government to listen to the views put forward by the trading community, they also need to act on them.

There has also been a marked drop in the number of visitor customer base for local retailers, which dropped from 41 per cent in 1997 to 21 per cent last year. This means that day-trippers from Spain are buying less and less in Gibraltar. When the Government have pointed to the increase in day-trippers as evidence of their success in running the economy, they fail to take into account that although more may be coming in, according to the retailers, they are spending less money in our shops.

In its Annual Report for 2000, the Chamber of Commerce point out that for a couple of years they have been tackling the issue of high overheads with the Government but that nothing has happened. In his budget address last year, the Minister for Trade and Industry said that the objective was to assist existing business to consolidate and expand and to work with representative bodies to identify the needs of the business community. Those needs are published by both the Chamber of Commerce and the Federation of Small Businesses in annual reports, surveys and press statements. What has been done, is better than nothing but much more needs to be done to reduce the cost of doing business in Gibraltar and this budget has failed to tackle the matter head-on.

The Minister for Trade and Industry will be happy to learn that contrary to what he predicted yesterday, I will be answering directly a number of points made in his speech of last night, given that he sounded disappointed that I might ignore what he had to say. Let me say first of all that I failed to understand the song and dance that was made about Opposition Members reading their own speeches, when practically everyone on the Government benches sitting next to him have done the same thing. If that makes us parrots then it may make them cockatoos. The Minister is wrong to have said that he does not subscribe to the view that there is insufficient information on EU funding reaching the business community and he pointed to several newsletters produced and distributed by the Government. We have said in the past that there is a tendency for these newsletters to be propagandistic rather than informational, but be that as it may, the Minister then went on to contradict himself by saying that there is

insufficient interest shown by the private sector in coming forward with projects. Surely then there must be a reason for that.

The Minister may not be aware of a survey conducted by the Federation of Small Businesses last year, which asked respondents how familiar they were with the way in which these schemes for funding to assist businesses work. Mr Speaker, 64 per cent did not even know about them. When asked whether they had ever applied for EU funding 89 per cent said no and when asked about Gibraltar Government funding 90 per cent said no. It would seem therefore that the Minister has not done his homework properly.

Mr Speaker, unfair cross frontier competition continues to affect many small businesses in Gibraltar, and this is an area which must be tackled. In his budget address last year, the Chief Minister said that it is important that competition works both ways across the border and declared his intention to provide an international level playing field last year. This did not happen last year. This year he has mentioned it again and it remains to be seen whether anything will actually happen, if it does not happen, then next year the Government can announce it again. They keep on announcing the same things. I have lost count of the number of times the urban renewal scheme in the Upper Town has been announced.

Coming back to the unfair competition point, it is really quite obvious and quite visible to see that while local established businesses with overheads have to comply with all sorts of rules and regulations, mobile tradesmen coming through the border do not. When one stands at the border and one sees people coming in with aluminium windows, with tools and with scaffolding, it is evident that they are not coming here to see the apes. There has been no more news also on the much delayed Trade Licensing review which was supposed to tackle this problem.

The Opposition were happy earlier this year to support the e-commerce legislation introduced by the Government into this House. The Opposition welcome and encourage e-business for



Gibraltar and we want to see Gibraltar develop as a leader in this field. In supporting the E-commerce Bill we did so, with a number of reservations, and raised questions as to the manner in which the European Union directives were being transposed. There were aspects of the EU directives which were left out, and there were others which do not appear in the directive that the Government have chosen to include. Be that as it may, we all know that an e-commerce law alone will not bring in new e-business. It would be wise not to get carried away with catchy headlines and media hype. Equally, concern has already been expressed by experts at the dangers of over-regulating something like the internet, which by its very nature is very difficult to control. The Head of the British Chamber of Commerce complained in February that over-regulation was threatening to throttle Britain's e-commerce sector at birth. EU experts have highlighted that although the e-commerce and e-signatures directive apply the single market philosophy to the on-line world, there are other more worrying barriers to contend with. Last year, for example, Member States agreed to give consumers the right to sue e-commerce traders in courts in their own country, raising the problem of having to fight legal battles at the other end of the European Union. In this context, it is important to note that there is now a more worrying proposal by Euro-Justice Commissioner Antonio Vitorino to allow judges to apply the laws of the country closest to the plaintiff in disputed cross-border cases. It is important, that we should be aware of what is in the pipeline so that we can plan ahead.

Equally, we need to ensure that we provide the necessary framework for e-commerce in Gibraltar in relation to data protection, privacy and preventing computer abuse which already exists elsewhere. This is made clear in the preamble to the e-commerce directive itself which assumes that these other requirements are already in place. In the United Kingdom, the Data Protection Act which dates back to 1984 and the Computer Misuse Act, cover some of these points. In Gibraltar, by contrast, even computer hacking has still not been expressly outlawed. It would seem there are still very basic matters like these to address before we take on the world and it is regrettable that neither the

Chief Minister nor the DTI Minister made any mention yesterday of this specific point or what the Government's plans are in this respect.

The Opposition think that it is a good idea that more Government business should be conducted on line. In fact, last year we asked in the House of Assembly whether the Government intended to expend their website with this in mind. The answer from the Hon Mr Britto was no. The suggestion yesterday from the Minister sitting two seats down from him was yes. We are glad that he has apparently been able to convince his colleague.

Mr Speaker, in relation to development projects the Opposition would like to highlight two cases where we think things could have been done differently and better. The first is the saga of the Gun Wharf tender. This is the site of the project originally known as Superport, which did not materialise. The Government put the site out to tender for commercial and recreational purposes in 1998. When one of the tenderers, who added a residential dimension to the project, was considered by the Government, it led to the whole site being put out to tender again given that a residential development was not originally on the cards and other tenderers had therefore not introduced flats in their proposals. The new tenderers were required to construct a finger jetty for the Ministry of Defence were they to be awarded the tender and nothing was heard for a long time. Finally, in the Gibraltar Gazette of Thursday 23<sup>rd</sup> November 2000, Queensway Wharf Ltd applied to the Development and Planning Commission for planing permission for a residential and commercial development at Gun Wharf. This happened two months before the tender award announcement was made, which came on 18<sup>th</sup> January this year. The Opposition were assured in answer to questions that it is common for companies to apply for permission even though the tender has not yet been awarded to them. What cannot be common and what is odd to say the least, is that those opposed to the development were given up to 18<sup>th</sup> December 2000, in which to make their complaints known. This meant, in effect, that the closing date by which people could complain had already

elapsed by the time the announcement of the tender award was made.

To add to an already odd situation, it emerged later after the tender was awarded, that the Government may not insist that a jetty be built after all, even though this was a condition of the tender and even though this fact alone was enough to put off at least one prospective tenderer from submitting a bid. The Minister for Trade and Industry confirmed in answer to a question from me in this House that a verbal complaint was received from a representative of that company after a meeting. The manner in which the Government have handled the Gun Wharf tender award is a fiasco. It has left much to be desired and there are many who are suggesting that in the same way that the site was re-tendered after the criteria was modified in 1998, it would seem only fair to re-tender again after this second modification. One cannot change the rules in the middle of the game, otherwise, Mr Speaker, the game is a farce.

I come now to Rosia Bay. The original advert inviting expressions of interest in the site was published by the Government in December 1999, with a closing date of January 2000. The Government were then supposed to study the four submissions made by interested parties and invite formal tenders for the project. All we know is that heritage considerations have prevented the matter from progressing but the exact details have not been made public. The matter has now been studied by the Government for one and a half years, and what could be a prime site for development remains under-utilised and unallocated. We were told yesterday and again today to expect an announcement in a few months time. We await with bated breath.

There are also serious points to be made in relation to financial services. The Opposition and Gibraltar generally are aware of the various international tax initiatives which pose a challenge to the way our finance centre, and those in other countries, do business. The Opposition feel that such challenges are best addressed by taking into account the experiences and contributions of all

investors in Gibraltar's finance centre future, not least the Opposition itself. For this reason and for the record, the Government have not seen it fit to debate with the Opposition in this House their analysis of the challenges ahead and how they would be seeking to deal with them. Indeed, a copy of the Government's own consultation paper entitled "OECD and other international tax initiatives" was not even circulated to the Opposition. Neither have we been sent the investor compensation scheme which was apparently circulated subsequently.

With the OECD deadline requiring a Government response to their initiatives fast approaching, there is still very little indication of just how the Government intend to comply with its provisions and what alternative fiscal arrangements might be introduced to mitigate the effects of OECD compliance on our finance centre. It is also unknown how far the Government are continuing to monitor all recent developments surrounding the OECD, the emerging challenges to its mandate, and the chances of it actually achieving a "level playing field" for all the finance centres around the world.

Mr Speaker, it is becoming increasingly apparent that our finance centre has to be flexible to succeed. If we look at any of the traditional and more recent benchmarks for success in our finance centre, we would have to say that no new banks have set up operations in Gibraltar since 1996 (indeed, the alarming trend is for quite the reverse with banks leaving), the Captive Insurance market has been slow to say the least, and new "passporting" and "e-commerce" initiatives are hardly taking Gibraltar by storm.

Indeed, recently the greatest single contributor has been obviously the emergence of the offshore betting market, which was something that happened almost by chance, and the Tax Exempt Company which was a vehicle created in 1967, and which continues, for the time being, to act as the cornerstone of our finance centre's development, yet even then, Mr Speaker, last year's estimates of revenue and expenditure showed a forecast outturn of £2.2 million in revenue for 1999/2000 from these

companies. The forecast outturn for the following year 2000/2001 was £2.3 million and the Government are estimating the same income from such companies for the coming financial year. Where then is the growth?

In terms of employment, the 1998 Employment Survey states that there were 987 people directly employed full and part-time in the finance sector in 1998 under the heading "Financial Intermediation" and a further 1301 under the heading "Real Estate and Business Activities". This makes a total of 2288 jobs. These are the last published figures from the last published survey. We do not have any new figures as the 1999 and 2000 surveys, as my Colleagues have already said, have not yet been published. However, in answer to questions in this House, the Government advised that a finance centre survey they are conducting suggests that about 2200 people were now directly employed in this sector in December 2000. This is hardly indicative of a monumental boom. What it shows is virtual stagnation. Where are the initiatives for on-going development of our finance centre? The Minister said yesterday that he thought there was significant growth in the finance centre based on statistics and talking to people. The Opposition have no evidence of that and, as I have already said, the statistics that we do have, the only ones that are available, suggest stagnation.

It is important not to make exaggerated claims and that we get things in their proper perspective. When the Minister referred to the presence here of ACE, he should also have mentioned the business contacts that brought them here instead of seeking to take all the credit themselves. This is something that they do so shamelessly time and again. The Opposition are committed to a strong and effective finance sector, which provides employment opportunities for our people and economic growth for Gibraltar as a whole. This must be based on real targets in a real world. The plain fact is that despite increased marketing, despite more money being pumped into the sector and despite more visits abroad and more conferences, the revenue and employment indicators suggest that the finance sector is static and not

growing, although there may be instances where individual firms may be doing well.

Mr Speaker, we run the danger of doing the same thing in the tourism sector. The Opposition want more tourists to come to Gibraltar. We want more people to visit our sites and to spend more money in our shops and restaurants. We believe in a strong and effective tourism policy to create jobs for our people. The Government highlighted four areas last year which they said they were going to target, using the increased £750,000 budget which existed for tourism marketing alone. These four sectors were the short-break/overnight sector, cruises and yachting, the conference and incentive market and the day tripper. Indeed, in his budget contribution last year the Minister for Tourism said, "What I have always aimed to achieve is value for money, and in this respect the Government are well satisfied that our targets have been surpassed." Having heard the Minister this morning and doing what they describe as an overhaul of the Government's marketing strategy, precisely to obtain more value for money, I think that indicates the position that the Opposition have been taking all the time and the criticisms that the Opposition have been making essentially that one needs to measure the amount of money that is being spent and compare that with the return one gets at the end of it, which is what I propose to do by looking at each of the four sectors one by one.

I will start with the day-trippers. The figures for tourism arrivals by land for the first quarter of this year is down on the first quarter of 2000. In other words, the Government's own figures, which are supplied to the Opposition on a monthly basis, show that less day-trippers came to Gibraltar in January, February and March of this year than in the same period last year. We cannot understand in terms of measuring the value for money element with which the Minister for Tourism was so satisfied until now, as he spoke in his budget address last year, how it can be that we spend more money and get less people.

It is obviously too early to monitor the effect that increasing the fee charged at the coach park will have on the number of vehicles

that use it. This House is aware of the views of the bar and restaurant owners represented in the GLVA on this subject. It is nonetheless interesting to note from the last figures that we have that the number of coaches that used the coach park in April 2001 (1483) is actually 78 coaches less than in April 2000 (1405). There were also 24 coaches less in May this year than May last year. The Opposition hope that this is not a trend, and as I said at the time of compiling this address, these are the latest figures that have been made available to us and to the Government up to the end of May

We have heard the figures for visitors to the Upper Rock being paraded as evidence of the success of the Government's tourism policy. The latest figures, which were supplied to the Opposition show that the number of visitors to the Upper Rock this year to the end of May is down by nearly 39,000 persons, not a few hundred or a few thousand. Indeed, they have been down every month since February and they slumped after entrance fees were increased in April. In April this year there were nearly 15,000 visitors less to the Upper Rock than in April last year, and in May it was over 11,000 visitors less. This is an alarming trend already and it would be more alarming if it continues at this rate.

At present in both areas where fees have gone up, the Upper Rock and the coach park, both visitors and coaches have gone down. Obviously this might lead to a reassessment of Government policy, were it to continue at this rate. It is also of concern to the trade that all this should come about coinciding with the decision of the municipal authorities across the border to build a free coach park on the Spanish side. Already we have seen a dolphin operator decide to leave Gibraltar and set up in La Linea offering the same service from there instead. The Government will agree that this is not a good thing. We do not want the neighbouring town to compete with us in some of the products that we offer so that tourists take a dolphin trip from there instead of taking one from here. It is basic economic logic that it is in the interests of Gibraltar that money is spent here and not there.

A word also about the Casemates development. The Leader of the Opposition has already mentioned how the announcement of this development, and its actual happening, has been going on since 1996. This will presumably have ended last week when the Minister chose to copy what many Roman Emperors used to do in their time, which is to have entertainment or parties or adulation of the regime and of the Government, while they can stand in imperial splendour in a cordoned off area, surveying their subjects as they pass by. Mr Speaker, Casemates has been there for hundreds of years, so I do not know what they were opening on Thursday. The creation of so many bars and restaurants at Casemates, at the instigation of the Government, has meant that other established businesses are beginning to fill the pinch. Those who are used to eating out on a regular basis have already noticed, that places that used to be full, now lie half empty. Bars that used to be full to capacity after office hours, say on a Friday, are now finding themselves with a handful of clients. The key is to attract new business and not to share the same slice of the same cake between more establishments, which is what is happening now. In this connection, the initiative taken by the Tourism Policy Unit of the Federation of Small Businesses is worthy of praise, as at the root of it lies the realisation that what Gibraltar needs is more new customers which means more new business.

The second area which the Minister for Tourism mentioned as a target area in his budget speech last year, was cruise liners and yachting. The Tourist Board website predicted 300 cruise calls for 1999 and we obtained 175. In 2000, the forecast was more conservative with 200 cruise calls forecast, of which we again obtained 175. At the same time we got 175, Malaga obtained 250 in 1999 and 225 in 2000. They are now building a new 2500 metre long berth and plan to become a base, or home port for international cruise operators. Indeed, the Fred Olsen line has already announced that its cruise liner "Braemar", which incidentally will call at Gibraltar in November, will then proceed to Malaga where she will be based for a programme of fly cruises to the eastern Mediterranean and the Canaries. They expect 43

ships to call there in May alone, so we need to be wary and this is the reason why the Opposition are pointing this out.

Mr Speaker, the first quarter of this year, January, February, March, saw only six cruise calls at Gibraltar. This is the lowest and lower than at any time since 1996. In the same period last year there were 21 calls and in 1999 there were 12. This year, according to the Government's own figures there were only six. From January to May this year, compared to last year, we had 13 cruise calls less. Very significantly because this puts pay to the argument about the size of ships and the size of ships is irrelevant if the number of passengers visiting Gibraltar has also dropped. We have nearly 12,000 passengers less this year than at the same time last year. This is happening, we are static or shrinking at a time when the cruise industry believes that cruising is growing in the Mediterranean area.

In Europe and the Mediterranean market, for example, there are statistics which indicates that since 1997, there has been a 53 per cent growth in capacity in this area. The Opposition want more cruise ships and not less. The Chief Minister mentioned the R2 but in the same way as it was used to boost figures when it used to come, now has to be accepted as a reality and the marketing has to continue and we have to attract more ships. The fact is that with or without the R2 we have obtained less ships in the first quarter of this year than at any time since 1996.

Last year the Government stressed the importance of value for money, in terms of the funds spent on marketing and the returns that the money produced. The Opposition, as I have already stated, believe that the cruise components of our tourism product is extremely important and we want more cruise calls. The figures above unfortunately speak for themselves whatever the reason may be.

Attending the London Boat Show and the Sea Trade Conference in Miami cost nearly £27,000, yet the number of yachts calling at Gibraltar in 2000 (4643) was less than those that called in 1996 (5042). The number of yachts that came to Gibraltar in the first

quarter of 2001, was also less than those that called in the same period of 2000. There were 51 yachts less last month than in May 2000. I stress that the figures are the Government's, so once again in this department it needs to be explained why more money is being spent with less results. The second area which the Minister targeted in his budget speech last year has also not produced growth, and in this context perhaps one can understand the change in marketing.

The third area, which the Minister mentioned, is the conference and incentive market. For these purposes a brochure was produced at a cost of £17,000 in order to entice conferences to Gibraltar. The Government attended at a further cost of £13,000, the European Incentive Business Travel Market Exhibition in Geneva, making a total of nearly £30,000. In answer to a question in this House, which sought to establish how many conferences the Government have assisted with, sponsored or co-sponsored this year to date, the answer were two and both were in London. I thought that when the Minister mentioned the conference market as an area to target in his budget speech of last year, this meant conferences in Gibraltar, so that people come here from outside, spend money here and stay in our hotels. In an extraordinary lack of co-ordination, one trade fair took place in Tangier at about the same time that our air links with Morocco came to an end and the Gibraltar-Morocco forum itself only met once in Gibraltar in October of last year at a time when delegates had no way of getting here by air. According to the information available to the Opposition, there have been no more meetings since.

Mr Speaker, the fourth and final area, which the Minister for Tourism mentioned as a target for his past financial year was the overnight stay/short break market. In so far as this means visitors coming here by air, the growth was a mere 4 per cent, or 3,000 people more than in 2000 from what had been arriving in 1999. These are figures also supplied by the Government. They came to Gibraltar in less flights from less destinations than ever before in recent times, with flights then serving Gibraltar airport only from London Gatwick and London Luton.

A rapid comparison with Malaga airport is useful to put things in perspective, although I do accept and appreciate the differences between the two. Eight million passengers went through Malaga in 1999. We were getting about 82,000. Last year Gibraltar received about 85,000 air arrivals and Malaga went up to 9.5 million. They had a growth of 19 per cent, we had a growth of about 4 per cent.

It is significant to note that the figure for departure tax in the budget is itself indicative of no growth at all in people departing Gibraltar by air. This is stationary at £700,000 and the Opposition would like a detailed explanation as the suggestion that the Government expect no growth in the people leaving Gibraltar airport, by estimating the same revenue in departure tax as obtained in the last financial year, appears to contradict the upbeat statements about visitors by air that they make at other times.

The policy of the Opposition is to encourage more airlines to fly to Gibraltar from more destinations. This is something we would like to see with routes that we lost like Heathrow and hopefully, we have heard this morning, Manchester coming back online. In terms of the overnight stay market, it is regrettable that the majority of people who fly to Gibraltar do not stay in Gibraltar and this pattern was again repeated last year.

It is a pity that the Government's efforts in this fourth area of short breaks have also not been very successful, because the Opposition want our hotel and our tourist industry to do well. The key indicator in this respect is the average length of stay for people staying in hotels. This has gone down from 3.7 in 1999 to 3.1 in 2000. For tourists, the fall is similar, being 3.5 in 1999 and down to 3.1 in 2000. There were 48,400 arrivals in 1997 at hotels. Now in 2000, the last figures that we have, they were 48,900 tourist arrivals at hotels. Only 500 tourists more and a growth of only about 1 per cent. The occupancy of hotels itself has only gone up by about 4 per cent from 1999 to 2000. On the other side of the scale to balance the value for money equation, is the investment, the £3.9 million owed by hotels in loans to be

repaid starting in 2003, and a further £690,000 also owed to the Government. In real terms translated in the years 1997 and 2000, this means that each additional visitor that has stayed at a hotel with respect of one year to the other has cost the Government £9,180. That is value for money.

Mr Speaker, from March 2000 to March 2001, the Minister for Tourism has been away from Gibraltar on Government business for 41 days, which is nearly six weeks or about one and a half months. This is the information he has supplied in answer to questions in the House of Assembly. He has been to London, Madrid, Bilbao, Geneva, Athens, Barcelona and Singapore. The taxpayer who foots the bill, would be right to wonder what return has been obtained for the money spent, given that the four criteria set by the Government themselves last year as target areas for this year, have all been sadly wanting. I say sadly because the Opposition believe that Gibraltar can do better and because the Opposition are committed to tourism and wants the industry to succeed.

By the four yardsticks set by the Minister in his budget speech last year, it would seem that we still have a long way to go. We are not saying that there are no tourists coming to Gibraltar, what we are saying is that there could be a far better return on our investment. We spend to attract yachts and we get less yachts. We spend to attract more day-trippers and we get less day-trippers. We spend to attract more cruise liners and we get less cruise liners. We spend in hotels to attract more long stay tourists, and the tourists that we get stay for less time, not more. Mr Speaker, there is much more work to do.

Having examined the Government's targets and compared them to the cost and the results, I am reminded that a cynic once said of Christopher Columbus that when he left he did not know where he was going, when he got there he did not know where he was and when he came back he did not know where he had been, and Columbus, did not have the additional confusion generated by rapid travel by air to multi-destinations. Thank you, Mr Speaker.

HON CHIEF MINISTER:

Mr Speaker, let us see about Columbus then. When I sat down and my Colleagues gave me the traditional parliamentary applause, the Leader of the Opposition described it questioningly as a dutiful applause. I notice that they have given each other the same degree of applause, which in their case, can only be dutiful given that what we have heard is the most irrelevant, uncritical, uninspiring, unimaginative, round of Opposition budget speeches, at least that I have heard, in the years that I have been in this House since 1991. Even at accepting, as one does, that the Opposition are entitled to take a degree of licence, which is what Oppositions have to do everywhere, not even that has enabled them to rise to the occasion of this debate.

Here is an opportunity for them to be relevantly and politically critical of the Government's handling of the economy and the worst that the Leader of the Opposition can say is that my speech is too long. Not one word of criticism from the Leader of the Opposition about the Government's handling of the economy. His speech, which for those of us that are enthusiastic parliamentary participants and observers, was disappointing beyond description. The thrust of his speech was, "the Government are doing quite well but not quite as well as they think". Coming from the Opposition, I take that as an endorsement. Then he says "please do not list your achievements, because it takes too long".

Mr Speaker, the purpose of the budget debate is for the Government to set out the state of the economy. If the state of the economy is such and what the Government have been able to do and plan to do takes two and a half hours to set out, I can understand why it does not make good listening for the Leader of the Opposition. The point of this debate is not to give the Leader of the Opposition political satisfaction. Political satisfaction that the Leader of the Opposition might derive from this debate is what he might have contributed to it and yet he deprived himself of that political advantage all by himself, without any help from me.

He starts his budget debate by launching a personal attack, as he regards, on my character deficiencies. I can only assume that it is the only way that he can think to cover for the complete lack of policy, of vision, of things to criticise the Government about. In other words, a smokescreen. I think it is unprecedented that the Leader of the Opposition should have had so little to say about the state of the budget. Basically he said, "do not list your achievements because it takes too long, do not speak for too long or you are in danger of catching up even with Fidel Castro"; complains that I spend one and a half hours before I get to the budget debate, forgetting that in the three and a half hour or four hour diatribe, to which he used to treat the House on these occasions, he never used to refer to the Government finances at all. To him the debate on the budget never had anything to do with the Estimates of Revenue and Expenditure, the state of the Government's finances, to which he never even referred. There is just no coherence between what he now urges upon others and what he did himself when he was in Government.

Mr Speaker, nor was my speech this year longer than last year, it was even shorter. At the end of the day I understand the Leader of the Opposition feels that he has got to stand up and speak, and as he has got nothing relevant to say, nothing really critical to say about the Government's economic policy, he can only fill up time with the sort of irrelevant diatribe to which he has subjected us all.

He says that the Government and me in particular, are obsessed with self-praise. It is for others to decide whether what the Government do is good, bad or indifferent. But if, setting out the Government's achievements sounds to him like self-praise, I cannot help it if they are positive things. I cannot invent failure of the sort that he had to report year after year in order to protect myself from the accusation of self-praise, when the reality of it is that apparently everybody sees the difference except him. Does he not remember as I do, him standing on this side of the House, bragging based on completely fictitious contrived and invented statistics, that the economy of Gibraltar was the fastest growing in the world, except Singapore and that Gibraltar had the lowest debt ratio to the whole of Europe except Luxembourg. He would

stand here making grandiose pronouncements of that sort and now he says that I am obsessed with self-praise and self adulation. The problem with the hon Member is that he has developed acute amnesia beginning as of the 16<sup>th</sup> May 1996. What should worry him from the point of view of his political prospects, is not that he has developed amnesia, but rather that the electorate has not. The electorate fully remembers all the things that he used to say and do or not say when he should have and not do when he should have. The electorate remembers all these things.

It is true that I do not have any grandmothers, it is also true that the Government tells it as it is. We announce our successes, we do not shirk from our failures. We signal threats and challenges on the horizon and I understand that the hon Member finds the fact that the community at large feels good, he finds this terribly politically inconvenient. One cannot from this pew in this place try and persuade 30,000 Gibraltarians that they do not feel as they do or that things are not as good as in many sectors they are, without underestimating what still needs to be done in others. Those are the realities of the position in terms of where the economy is at the moment. I do not know whether my personality deficiencies are acute, moderate or non existent, but it is not from my party executive that people are deserting in droves. It is from his executive and as they go slamming the door shut behind them, they have things to say about his style of leadership within his party that no one has ever said about me, so I do not know which of us has the more difficult character. What I do know is that people in glasshouses should not throw stones or put a bit more vulgarly for his benefit, "if you spit into the wind, you will get your face wet". So far, all the evidence is about breaking glass in his greenhouse and about spittle wetting his own face. I get nothing of it yet from my Colleagues on mine.

The Leader of the Opposition was critical of what the Government plans to do as if the Government were somehow re-inventing sliced bread. There is no Government in Europe of whatever political ideological shade that does not protect the taxpayer, the taxes paid by the sweat of ordinary working class people, from

being raided by people who simply do not want to work and want to sponge from the sweat of working people. The hon Member ignores all that I said about this not affecting people who cannot work through incapacity of their own or through the fact that they cannot genuinely find a job in the economy and launched into a tirade about a policy, which is designed only to ensure that people do not become professional spongers on the social security system, or does he not know that there are people who turn up to collect social security payments in their Mercedes Benz. Does the hon Member think that is right? Or does he share the Government's view that that is an abuse of taxpayers funds? Certainly all the genuine socialists in Europe, amongst which I do not include him, have seen it necessary, desirable and fair to stamp out social security fraud amongst the minority that is practising it, but the idea that one does not introduce a system designed to stamp out that fraudulent majority, designed to protect the non fraudulent majority and that he launches some pseudo ideological objection to it, persuades no one, and I know, persuades not even him.

Mr Speaker, the hon Member said that if I list all my achievements, I will eventually end up speaking for longer than Castro. I thank him very much for that enormous vote of confidence and for that enormous endorsement of the Government's achievements, which he clearly believes that the list will get me making six hour speeches. I believe that that is the only sincere and genuine statement that he has made in his whole analysis of the political situation. The Government, like all governments, have things that they have not yet got round to doing. It has things that they have done which they might have done better and has a lot of things that it has done well, but the hon Members do not even settle for that. Anyone listening to the hon Members would think that the Government have achieved nothing, but do the hon Members not understand that they are burning up what little political capital, whatever political credibility they have left in this community, that they are burning it with remarks of that sort. It is lamentable that the hon Member, who professes to be a committed trade unionist and socialist, should be so out of touch with the working conditions of some



employees, some workers in this community, that he should believe that the minimum wage will benefit practically nobody. Or has he not seen, published I think it was in February, the latest Trade Union/Chamber of Commerce agreement relating to pub workers and non domestic people which are hovering more or less at these levels and that is a privileged group in respect of which there is a collective agreement between the unions. All the people in that sort of industry that are not covered by those agreements earn less than the minimum wage. It is not for nothing that the Transport and General Workers Union was asking for a minimum wage less than this. Does he not remember last year criticising us for announcing a minimum wage higher than even the Union were asking, why does he think the Union would ask for a minimum wage that will benefit practically nobody. He has got to understand that his remarks would be measured against the realities of what people, as people, know it to be.

Mr Speaker, I am forced to the conclusion that either the Leader of the Opposition, for all his historical bragging to the contrary, is economically illiterate or if he is not, that he pre-meditates and sets out to deceive the people of Gibraltar in the remarks that he makes. There is no other explanation but one of those two for his statement explicitly on GBC television and implicitly throughout this debate, and I quote him, "that the private sector is in a disastrous state", where is he living? Even in Gowlands Ramp, if he never moves out of there, he must see that that is not true. With what degree of credibility does he think that people will hear him say that the private sector is "in a disastrous state". None of the economic indicators suggest that that is true, whether it be the tax yield, whether it be, regardless of his false analysis of the figures, employment levels, whether it be import duty yield, whether it be the volume of telephone traffic in commercial telephone traffic, which is itself a measure of economic activity, whether it be the statistics, which are not as the Hon Dr Garcia has just said, and I will put him right in a while. The fact that all the visitor statistics are at record levels. Everybody in the Finance Centre speaks of the Finance Centre being buoyant and prosperous. The level of activity in the Port, whether one

measures it by number of visiting ships, whether one measures it by the volume of bunkers sold, however one measures it, the level of port activity is at record levels. Whether one judges by the statements made by businesses, when the President of the Chamber of Commerce, who has never been known for being a die-hard supporter of my party as he well knows, when he says that the economy is buoyant and when the Chairman of the Finance Centre Council says that the Finance Centre is enjoying a record year, does he think that they are describing the position on Mars or is he describing the position on Mars? They cannot both be right. It cannot be the case that the private sector is in a disastrous state, as the Leader of the Opposition would have the people of Gibraltar believe, and that all these statistics, all these indicators should be pointing in the same direction, however imperfect they might be as a scientific measurement, but they all point in the same direction, business leaders all confirm it, whilst not ignoring the fact that there are pockets of problems about. The Government's yield from corporation tax rises year on year and the Leader of the Opposition would have us believe that the private sector is in a disastrous state. He must either be economically illiterate, pre-meditatively deceiving the people of Gibraltar and this House, or I suppose, he might be blind, because even if he wanted to ignore all the statistics, so even if one is deaf and blind and wanted to ignore or not hear the statements made by others, or see the statistics, just walk around the streets, walk around the place and ask yourself whether it gives the impression of being a private sector gripped by disaster.

If the Leader of the Opposition wishes to mortgage his remaining political credibility in that way, then I suppose I should just encourage him to do so. I suppose ultimately we would be the political beneficiaries of that. It certainly does him no political service or favours. The Government are fully aware that a lot of these things are cynical and that the pendulum will swing and that just as the Government take credit for the good times, people will hold us to account for the bad times, much more credible for the hon Member to wait for that. To try to pretend that the good times are bad times as well, I would have thought that that would be simple political philosophy, when somebody of his experience

after all he is always bragging that he has been in public life 33 years. I would have thought his 33 years in public life would have taught him that at least if nothing else.

Mr Speaker, the Leader of the Opposition, in an attempt to obfuscate the realities of the economy that everybody can see, tries to build this picture of crisis on the twin foundations of insufficient statistics on the one hand and his own distorted use of them on the other. I am sorry that there are not more statistics available because just as they would be useful to him, they will be useful to Government and if in Gibraltar there are not more sophisticated statistics, it is because he personally presided over the dismantlement and the disarticulation of the Government's statistics capacity through the Statistics Office. Notwithstanding that, he gets incomparably more statistics than any Leader of the Opposition that opposed him ever got, and then, not because they were not available, but because he would not provide them. The problem is that he either does not know how to make use of the statistics or, more probably and more likely, the statistics do not serve his political purpose. There is no disguising these facts.

The Leader of the Opposition would have this House and Gibraltar believe that the economy in terms of employment is static. He uses all these deductions and subtractions and additions and comparisons of 1998 and 1997, that we have not yet got 2000, all to try and build some house of cards about how there is no new employment going on. If there are 380 youngsters that enter the labour market every year, either as direct school leavers or as returning graduates, what does he think is absorbing all of that. If the economy were not generating jobs, those 380 people, allowing a deduction for retiring people at the other end, which happens at a much slower rate than intake, the unemployment figures would have to be rising by several hundred a year. I do not see any evidence of that. Where do all these people go? If the employment situation is static, from where came the 204 Gibraltarians employed in the last two years in the gaming industry? Where did they come from? There has not been 204 redundancies anywhere. This idea that the hon Member seeks to pedal that there is no job creation, does the hon

Member not speak to people in the Finance Centre? Is he not aware that the Finance Centre is increasing the number of people that it employs? Does he not know that businesses complain that there is a shortage of labour for them, not that there is a surplus of labour, which is what one would expect, if the reality was the sort of employment nightmare that he seeks to paint. There is a shortage of labour and does that strike to him like a phenomenon that one would expect to find in an economy which is stagnant, disastrous and not creating new jobs? I do not know what sort of economics they taught him at Birmingham or where it is that he studied this, but certainly he is not putting to very good use whatever it was that they taught him there.

They persist with the notion that there is no evidence of growth in the economy. I suppose at the end of the day I am not particularly – not being as obsessed as he is with figures - if the situation out there reflects a position, which he calls stagnant, disastrous and no growth, long may it continue, because certainly in none of the eight years that he presided over the economy of Gibraltar, has the private sector applauded the trading conditions, the environment that it enjoys today, despite the fact that much of Main Street is suffering from the strength of the pound against the euro, about which the Government can do nothing. Despite that fact, there is buoyancy in the private sector. The hon Member can assert what he likes about what he believes to be the state of the economy, but at the end of the day, this is not about persuading each other. I am not going to persuade him and he is certainly not going to persuade me. The ultimate jury is out there and I am perfectly happy to be judged by that jury.

The Leader of the Opposition then complains about the lack of Government action over arrears. We will overlook the fact temporarily that his Colleague, the Hon Juan Carlos Perez, was complaining about telephone disconnections by people who are in arrears, but we will leave that to one side for one moment, that apparent paradox. Mr Speaker, it was he who dismantled all the inspectorates in the civil service, in the social security department, in the income tax department, in the treasury. We have had to gradually, without an explosion in public service employees, to

rebuild it. I am sure it takes time because the policy of the Government is not to bankrupt businesses by expecting them to pay arrears that accumulated over many years in one go, the policy of the Government is to enter into arrears agreements, which gives a sufficient time to pay arrears over the future so long as those people remain current up to date with their current liabilities, although the return from that process will be gradual. But what he should look at is the number of arrears agreements that are being entered into whereas before none were being entered into and no arrangements were being put in place to retrieve those arrears even over, what some people may regard, as too long a period of time into the future. If there is a problem of arrears today larger than it needs to be, I accept that the problem has continued since we have been in Office, it is because as a result of his dismantling of all the inspectorates and arrears collection facilities, he encouraged in Gibraltar a culture of non payment and it did not matter if people did not pay their house rents, and it did not matter if people did not pay their rates, and it did not matter if people did not pay their taxes, and it did not matter if people, even employers, at the expense of employees, did not pay their social security contributions. This is one of the many adverse cultures that he presided over the taking root of in Gibraltar. Now he comes to this House suddenly as the champion of the recovery of arrears. He is of course entitled to do so, that is what Oppositions are for, but he will forgive us if we do not hear him with as much credibility as we might have heard a Chief Minister who in his days in Office had done more about what he now preaches, rather than more about the opposite of what he is now preaching.

Mr Speaker, as the hon Member well knows, because he used to say so in this House to me, it has always been the case in Gibraltar that the bulk of the company tax yield derives from a handful of large companies, always, that is not a new phenomenon. Therefore, knowing that, that he should seek to apply that phenomenon to somehow justify something new now, about the state of the private sector, is, to his knowledge, a misapplication, an abuse, of what has always existed as a

phenomena, at least since the private sector became more important to the economy than it once was.

When talking about the reserves and the balance of money in company accounts, we all know that the Leader of the Opposition is obsessed with accounts, but when none of his companies were preparing accounts or tabling them, his obsessions with accounts was of a different kind and to a different end and for a different purpose. I welcome the fact that he should take the time to scrutinise the accounts that we now put in the public domain, so that he can scrutinise them. He asked to explain the great fluctuations. He said that in one of the companies, on the company balances, we had predicted last year that there was £1 million and we predicted that that would come down to £500,000 and now finds that there are £6 million when one reads this new further page of new transparency that we build on this year. There is no reason why he should know the answer to this, but the explanation for his benefit is simple. Harbour Views expenditure was drawn first from the company balances, given that it is the company that has a 50 per cent ownership of those flats. The balance in the accounts therefore were taken down to practically nothing at the time that the Government were paying out the expenditure, not just for the builders and the contractors but for all the other expenditure that came before it, legal fees, emergency works, et cetera, since the whole saga began. The reason why it now goes up from £1 million to £6 million is that the company has had restored to it the money that it paid out from the monies recovered in the settlement from Agroman. That is why there is a sudden recovery in the health of the cash balances of the company because all the cash outflow that it sustained when it was paying for the Harbour Views works, has now been restored to it from the monies received from the legal settlement of the case with Harbour Views. The Government intend at some stage in the future, when the Harbour Views project is finished, to publish an overall account of the Harbour Views project regardless of where it has come from or where it has gone to, showing all of that, so that there will be a record of the total cost to the taxpayer directly and indirectly of the Harbour Views remedial works.

Mr Speaker, I think the Leader of the Opposition misunderstood me if he thinks that I said that the shortage of telephone numbers was no longer as critical. I did not say anything of the kind. I said the opposite. What I said was that because it has been overtaken by something even more critical, mainly the fact that people could not reach Gibraltar at all because of this difficulty of getting through on '350', that a problem which was previously critical and indeed was still critical, people were forgetting about. In other words because we face two critical problems and one of them is even more urgent than the other, people were tending to forget that we were still labouring under the problems of the shortage of numbers, which have now become an exhaustion of numbers, so, far from suggesting that the shortage of numbers was no longer critical, what I was trying to do is the opposite, simply remind people that it was still around and that it was a very critical problem.

The hon Member referred to press reports about the possibility of a deal on single sky, telephones and borders. I suppose the way that deal might go, he fears, is that somehow Gibraltar might agree to be excluded from single sky against a deal on telephones or borders. I am grateful to him for acknowledging what the Government have said already publicly about that position. What I can further say to him now is that notwithstanding that the newspaper in which that story was carried, which in my experience does not have an obvious record of inventing stories, at least not on the international political front, notwithstanding the fact the story was attributed to what the paper calls - I think it was the Panorama - "A British diplomatic source". I can tell him that the Foreign and Commonwealth Office deny it altogether, deny all knowledge of it, deny that it was said, deny that anyone knows that it was said, deny that it is the British Government's position, of course the kite stays up in the air.

Mr Speaker, I really do regret that the hon Members should persist, some people say I am too thick skinned, but I am certainly thick skinned enough to understand that the Opposition are entitled to pick holes and to try and make them bigger. This idea that the hon Members try to make stick that somehow the

Gibraltar Government fight and then give way, that somehow we are appeasers, whatever that word might mean, or that we speak tough and act soft, it is really not borne out by the facts or the events; it is not borne out by ordinary people's evaluation of the Government's performance, even in that area. However, if the hon Members definition of appeasement is someone who does not view life only as having black and white and not recognising that in the reality of life there is much greyness and does not follow the policy to which they subscribe, that it is better that Gibraltar comes to its knees economically and politically, rather than give ground on things that are only grey in colour, if that is his definition of softness or appeasement, then thank goodness for Gibraltar that there is a soft and appeasing Government. I am not aware of a single instance in the years - I can think of one when he was in Government - but I cannot think of a single instance when we have been in Government that we have done a deal that compromises any fundamental interest of Gibraltar.

The Post Boxing Agreement certainly did not. The Police Co-operation Agreement certainly did not. The Identity Card Agreement certainly did not. The Government consider the Identity Card a massive achievement and the thousands of Gibraltarians that apply for them appear to agree. There is no U-turn. If anybody has done a U-turn it was done by Spain because what Spain has now agreed to do - I know that the hon Members do not want problems solved, what the hon Members want is to see Gibraltar plunged into political, economic and social crisis so that then they can turn round and say, "What a terrible job the Government are doing, we were right all along, there is only one way to go, and that is to man the barricades". They can forget about it. They can taunt the Government as much as they like. There is more chance of hell freezing over than the Government adopting the Jurassic dinosauric, twice rejected by the electorate approach to the conduct of Gibraltar's affairs, that policy has already once brought Gibraltar to the brink of calamity. If the hon Members want to carry on advocating it, I suspect that that will be to our political benefit as well. I wish to do nothing to discourage the hon Members from not changing their spots.

Mr Speaker, what the Identify Card Agreement did was in a document that says "Issued under the laws of Gibraltar by the Gibraltar Government", by the hand of the same person that has always issued them, under the signature of the same person that has always issued them, under the signature of the same Gibraltar civil servant that they designated should issue it. Spain is now accepting that card as a valid travel document. It remains a Gibraltar issued document, a Gibraltar document issued by the same Government department, by the signature of the same Government employee that has always done so, except that they made no progress in achieving Spanish recognition, not even in the courts and that now Spain is recognising it. He may regard that as a U-turn and a concession. We regard it as a triumph because the one thing that the hon Member did not learn, spent eight years demonstrating that he had not learned and that he was incapable of learning and that the subsequent five years in Opposition demonstrate that he persists with his incapacity to learn, is that no one wins battles ten-nil. Certainly small countries do not win battles against big countries ten-nil and that small countries certainly do not win battles against 15 big countries ten-nil. It does not mean that the card is signed by the Governor or the card is signed by some English official in London or that the card is no longer a Gibraltar Government document. If one loses ten-two without making any fundamental change, only somebody with no sense of reality about what life is like in the real international world, would regard that as defeat. We regard it as a major achievement, but we know that the things that the hon Members regard as achievements have been rejected twice by the electorate and that the very different things that these hon Members regard as achievements, have now been endorsed by the electorate with our second electoral win. We know that there is a vast gulf between the judgement and the standards of the hon Members and the judgement and the standards of the Government. We believe that the people of Gibraltar prefer ours than theirs, otherwise they would be in Government and we would be in Opposition, or does he expect us to adopt their attitudes, their policies, their approach to life, their barricades, baked beans for everybody, let us man the barricades and fight the whole world together because we are right. The people of Gibraltar have

rejected those simplistic and infantile analysis of life. Even half of his executive committee has now abandoned that philosophy. Only he has not yet abandoned it.

Mr Speaker, the hon Member would have us all believe that there is no extra training going on. I gave him the figures. I went to the trouble of quoting that subhead of the training expenditure, which related to training courses. I am sorry he does not like the word "explosion". I do not know when an improvement becomes a big bang and when a big bang becomes an explosion. I realise he is obsessed with irrelevant semantic issues, both on words and indeed the numerical equivalent. So leaving to one side the semantic dribble, even to somebody that is demonstrating the economic obtuseness that he has demonstrated during this budget, it should be obvious that just on training courses expenditure, there has been an increase from £959,433 in 1999/2000. If he goes to the Appendix on page 112 of the Estimates and he goes four-fifths down the page to the heading "Trading and Development Courses", he will see an expenditure that has risen from £959,000 in the year 1999/2000, which was itself a significant increase on previous years, to one that was £1.375 million last year and will be £1.3 million this year. That excludes the Construction Training Centre, which is in the block below.

I should also tell him since he touched on the question of the reimbursements statistics down at the very bottom of that page, that the figures that I cited to him about the millions of pounds that were being spent on training, were net of that reimbursement figure. I did not quote the figures at the bottom of the page. I quoted the figures minus the reimbursement item. It is a minor point just for his clarification.

I am sorry that he is not impressed by the Government's record on training, but he is one of the few people that is not, which is not to say that the Government do not need to do more. The Government believe more needs to be done, which is why we are constantly increasing the resources, the manpower and money

devoted to training, but I think it is rather ungenerous of him not even to recognise that there has been a significant improvement. Everybody else does, the private sector, everybody recognises not only the improvement in quantity of training, but what we think is more important than the improvement in quantity of training, the improvement in quality of the training.

Mr Speaker, I feel that when he says that no amount of training expenditure will help the 300 people, which he regards as the base-line, let me say that I do not regard the 300 as a base-line. It is not the policy of this Government to write anybody off as unhelpable. It is not the policy of this Government to take the view that here are 300 people who cannot be helped and therefore we simply accept it as that level of structure of unemployment with which this community deals. Having said that, he still misses the point because the fact that one delivers training throughout the economy, means that people at all rungs of the ladder within the economy get the opportunity to improve themselves and to aspire for higher quality jobs. As they do that and move up there is a domino effect, which opens out job opportunities at the bottom for the people who are only in a position to enter the jobs market at the bottom, manual skills and things of that sort. Even the training that one delivers higher up the ladder, eventually the benefit of that cascades down to create openings on the basis of people moving up, for people who can then come in at the bottom.

He asked how secure the Government felt the revenue base of £150 million was. The answer is that the Government take nothing for granted, which is why the Government pursue the prudent economic policies that we do. Of course I know that we could gear ourselves up more greatly on the borrowing side and service a much larger public debt using the budget surplus not to pay capital expenditure directly, but to service larger public debt. If the Government were just willing to do as much as possible, as quickly as possible, that is what we would do. We would go out and borrow another £50 million and then we would use the budget surplus to finance it. The Government are not willing to commit

the entirety of the budget surplus on a recurrent basis because if we do that, there is no cushion to insulate public finances from some things that might happen that would have the effect of reducing Government revenue, whether in taxation or in import duty or in anything of the sort. Therefore, the Government follow the really very cautious policy of using the budget surpluses as capital, not as income from which to service capital debt, but using the surplus itself as capital. In other words, we invest it whilst we have got it and when we cease to earn the budget surplus, we have not mortgaged the Government finances for the future. Having said all that, if I had to choose, if I had to abandon prudence, which I am under no pressure or need to do, and had to choose one course or the other as the more likely to materialise or not materialise, I would say that the Government's revenue base at £150 million is secure and that it would require a very significant fall in sustainable economic activity, in permanent economic activity for that figure to be dented significantly.

Mr Speaker, I would much rather have had a debate with the hon Member on the substance of what the Government have done or not done, could have done better, could have done worse. I very much regret that by the way he began and continued his address, the Leader of the Opposition signalled that that was not what he wanted to do. I can understand how it must rile him even given what we regard him to be a pseudo socialist, but even as a pseudo socialist, we can understand how it must rile him that he raised taxes every year and that he did so demonstrating the pseudoness of his socialism in the most regressive way possible, in the way that penalised the lowest paid whom he claims to be his trade union colleagues, the hardest, by a systematic year on year above the rate of inflation, increase in social insurance contributions, which given it is a flat rate of tax regressively penalised the lowest paid the most. He did it without compunction, without regard for the well being of the very people that put him in office. He did this, and I understand how it must rile such a person that this Government, that he tried to persuade the people not to vote for originally because we were right wing and all the rest of it, that it has been this Government that year after year, every year since we have been in office, have lowered

the rate of taxation and have continued to lower the rate of taxation, even after we have made up all the lost ground that he raised taxes by. The fact that he is riled should not drive him to personal abuse and attempt simply to assassinate the character of the Chief Minister. I do not know whether he thinks that he improves his electoral chances by persuading the people of Gibraltar that I am some sort of ogre. I fear that if we were to enter an ogre contest, he would win before me. I understand that it must rile him, despite his historical trade union credentials and working class pseudo affiliation, and despite the fact that he speaks of the working class as his brothers and his kin, I understand how it must rile him, that it was not he who in any of the eight years that he could have done so, eliminated the historical discrimination against industrial workers in terms of their pension rights. And it is this Government that he dismissed as fascists, that has done so, or that it is this Government that reversed his law exempting, preventing the vast majority of workers in Gibraltar from benefiting from the insolvency fund, or benefiting from statutory redundancy payments, and it is this allegedly right wing Government, that have demonstrated that it is the Government of all sectors of Gibraltar because we have shown that we help business as much as we help the ordinary working people, that we help those that need our social services, as much as those who do not. I understand that that must rile him. But he still does himself no favours by launching into a personal assault. I understand that it must rile him that whereas he, who regarded himself as an economic guru, brought the private sector of Gibraltar to the brink of calamity. Does he not know that in 1996 there were businesses and banks with their bags packed waiting to see what the result of the election might be. He does not know that? It is this Government that have restored the fortunes of the economy to what is a consensus description of as buoyant. It riles him. I understand that it riles him, but it should not be an excuse for resorting to personal abuse. It must rile him that whilst he thought that the elderly people of Gibraltar were electoral putty in his hands, his personal electoral property, did not prevent him from abusing them in the end, but it must rile him that having thought that to be the case, that it is this Government that have massively increased

expenditure on care for the elderly, through the increased resources that have been pumped into the Elderly Care Agency, details of which we have heard. That it is this allegedly right wing Government that have restored the professionalism, the management, the resources, the premises, the modern techniques to Gibraltar's Social Services Agency for the benefit of the most vulnerable members of our community. It must rile him that it is us who have introduced the elderly persons minimum income guarantee, or did he not care that there were 587 elderly people in Gibraltar living on less than £85 per week. It must rile him, given that he thought that he was the champion of the elderly of this community, that it is this Government, not him, in any of the eight years that he was in office, but this Government, that exempted elderly people from taxation in their thousands. All this must rancour him enormously. He should still not succumb to the temptation of resorting as a smokescreen to personal abuse. It must rile him that whereas he tore the soul out of much of our youth through his condonation, active encouragement of activities that were tearing the heart out of a large part of our youth, it must rile him that this Government have put it back with a focus and an expenditure on leisure facilities, on sports facilities, on cultural facilities, on musical concerts, on Casemates Square type environment for our youth to enjoy themselves in. All of that must rankle him. It must rankle him that whereas he destroyed the reputation of Gibraltar, that this Government have restored it to where the people of Gibraltar always deserved it to be and never deserved it to be taken down from as he did. All of these things must rankle the hon Member terribly. It might even explain why he appears to have been incapable in two and a half hours of speech of making one, just one, criticism of the Government's economic policy. Not once did he say, the Government are doing this badly, I think it should be done that other way. Not once. He went on and on about arrears and about statistics and about this and about that. The reason, is that he knows he is not treading on politically fertile ground, and that he will have to wait – I do not attribute to the hon Member for a single moment – the desire that Gibraltar should fail economically so that he can benefit politically from it, but certainly that should not lead him to try and pretend that what is, thank goodness and just as well, for

the benefit of Gibraltar, the position today, it might change, but today it is the position and there is no point denying it, simply in an attempt to score political points the way that he is now.

Mr Speaker, the Hon Pepe Baldachino asked whether he could be told why the expenditure of the Milbury contract had risen. Then he also asked whether the Government were satisfied with Milbury. I will take the first point first. It is not as he suspects, given that he said "The Milbury provision is constantly increasing despite the fact that the Government said that they will be ring-fenced". That is true and that remains true. They are all specific Government policy decisions, that as the Government expand social services in Gibraltar, as I have just finished saying, is central to Government policy, new services get added to the contract, which generate additional cost, which then increases. These are called contract variations, so for example, there has been a total of £1.4 million extra expenditure representing contract variations for the following: The respite and sitting service; the stay and play scheme; extra staff posts resulting from the unitisation of the Dr Giraldi Home; post service support; some element of inflation; replacement of two Government employees by Milbury employees; specialist service for problematic twin girls; the introduction of the fostering service; the introduction of the challenging behaviour unit; move of children's residential service to three small units. All of these projects have generated additional expenditure which mostly increases the ring-fence part of the Milbury contract. In other words, the direct cost that the Government sustains, the cost of delivering the service and only in a very small way increases the fee element, the remuneration element for Milbury. This is not money for Milbury. This is mainly money for additional people, additional costs in the actual delivery of the service. In other words, the ring-fence, the prescribed expenditure as opposed to the remuneration, the consideration fee, if the hon Members can remember the two labels that we had in the contract.

Mr Speaker, the hon Member mentioned the delay in introducing the Upper Town bus service for the elderly. Certainly the Government regret that. We did explain in the House at Question

Time why that was. The decision has been taken to leave it. If there is going to be a new bus operator that is going to provide this specific service, what is the point in the Government launching into it with their own staff and their own resources.

Mr Speaker, turning to some of the contributions of the Hon Dr Valarino. There will always be people that find the Housing Department unfriendly and there will always be people who complain that if they do not get what they want, that Ministers are inaccessible and they do not distinguish between access and results. I do not know if this problem, if this phenomena is greater or less extensive than when the party that he has now joined, was in Government. I can tell the House that the previous Housing Agency, the one that we inherited from them, was not reputed for its user friendliness, was not reputed for the gentle sensitive nature with which as a private contractor they used to treat public service users. I used to get flooded with visits by disgruntled housing tenants who had been to Ministers, had not got joy, and then would come to the Opposition in the hope of making each case a political one, which we resisted and they do not resist doing. All I can tell the House is that from what I am told from people that have been around for both Governments, that the extent to which Ministers in this Government give access to ordinary people with ordinary problems, is much greater than the extent to which they did. I do not know if the hon Member is aware but just using me as an example, every Tuesday afternoon, I have clinics and that as from 2 pm to 6 pm, everybody who rings, without saying what it is that they want to see me about, all they do is give their name and they get the next available slot, gets a 20 minute slot to come to talk to me about the weather, if that is what they want to talk to me about. [*HON J C PEREZ: Or they see Mr Hook*] That is in addition to seeing Mr Hook. I do not know whether my predecessor at No.6 Convent Place had any such structured approach towards making himself accessible to ordinary people. Certainly no one has ever complained that I am inaccessible, and I can say that in the five years that I have been Chief Minister of Gibraltar, nobody, not one person, has asked to see me, who has not, they might have had to wait, I am sure the hon Member understands that there are many demands on my



time and many responsibilities to my job, but that albeit waiting more or less depending upon what my other commitments are at the time, no one has not seen me and as often as they have wanted. I believe that my hon Colleagues operate similar systems. The hon Member, I believe is falling into that not unusual trap of believing his own propaganda when nobody else does. For the hon Member to assert with a straight face and I allow full margin for the high personal regard, as opposed to political regard, in which we all hold him in this House, but for him to say with a straight face, that Bishop Canilla House and Edinburgh House are something of a disappointment, suggests to me that he does not know what is going on down there. If he thinks that the 86 odd elderly persons accommodated in Bishop Canilla House are disappointed, he is living in cloud cuckoo land. If he thinks that all but a few malcontents are unhappy in Edinburgh House, then he does not know that Edinburgh House has become one of the most privileged Government housing estates to live in, in terms of open spaces, planted areas, easier parking facilities and external condition of the buildings. The only complaint that was made was when the Government introduced this business about non residents not being able to park there, and that was at the request of the Tenants Association. The only thing is that there is always a minority who disagrees with the majority, that handful goes rushing off to the Opposition and the Opposition adopt their cause as if it was a generalised malaise. It is not particularly impressive opposition politics I have to say. I am sure that there must be real issues, genuinely real issues upon which they could attack the Government, as it is their duty. We do not complain if they attack us. We recognise that both sides serve a different purpose. We know what their purpose is, but there must be genuine real issues upon which they tackle the Government, and they do not. *[Interruption]* I have heard it all now. The GSLP started negotiations with the MOD? Do hon Members want to take credit for that? How strange that there is not a word of mention of it in their manifesto. *[Interruption]* The reality of it is that they had not negotiated the transfer with the MOD. That was on a list of properties that the MOD had earmarked for eventual transfer, that is true, and that it was on that list whilst they were in Office, that is true, but that they

negotiated its free transfer with the MOD, is not true, because it is not true even now. What is true is that the Government are not paying but it is not true that they have agreed to give it for free. It is certainly not true that they were going to use it as Government rental stock, when everything else was given out 50/50. They had not even addressed their minds to Edinburgh House. I think it is frankly beneath the hon Member to try and take credit for things – he blames us, they complain that we take credit for things that we have done, and they take credit for things that they have not done, from the Opposition benches.

Mr Speaker, it is, we all know, we know it, the public at large knows it, that it has become the only political strategy of the Opposition to find some way of taking the shine of the good things that the Government do. “Oh dear, 200 odd flats, Edinburgh House, people are very happy, little halo for the Government, how can we take the shine of the halo?” I know, let us make a fuss about the level of rents. Let us offer to reduce people’s rent, not even that worked. When the hon Member says that the level of rents at Edinburgh House are too high, he ought to be aware that these are rents that residents of four or five Government housing estates, have been paying since 1986. That is 15 years ago. There are Government tenants that have been paying these levels of rent in four or five Government housing estates, in fact paying more than this level of rent, because this is not the highest housing estate. There are tenants in Gibraltar, in three or four housing estates that since 1986 have been paying a higher per square foot, not overall rent, because that depends on the size of the flat, per square foot rate of rent since 1986. How can the hon Member say that to impose 1986 rentals in the year 2000 is excessive rent. It is just political points for him of the cheapest kind, rejected by the electorate that is much more intelligent than they give them credit for.

Mr Speaker, usually Oppositions criticise Government policy. This is what we were used to. Oppositions usually denigrate the policy of the Government and instead promote their own. The hon Member has perfected a most unusual political style. He does not assert his own policy, in fact, I am not aware that he has

any. What he does is, he reads our manifesto, adopts our policy and then sets himself up as a timekeeper to see how the Government are implementing their own manifesto policies. "You said in your manifesto that you will do Coelho House, you have not done that yet, last month you told me you were going to do it and you have not done it yet". If the hon Member tries to make a political virtue out of the exact timing of when the Government implement their manifesto commitments, he runs a very big political risk, because if before the next general election we have succeeded in implementing all our manifesto commitments, then he will have to stand up and give us a round of applause, because his entire four years political output has been based, not on the fact that the Government are doing the wrong thing, but that the Government are taking a bit too long to do their own thing. I believe that what he cannot seem to do in this rather crude and transparent fashion is to try and be associated publicly with the implementation of things, which are our policies not his. When they eventually happen, they will have happened because they are Government policy commitments, not because they are his policy commitments or because he has been pressing the Government. Let me illustrate it with an example. He presses my hon Colleague, the Minister for Housing, because we said that we would start with Varyl Begg and we have not yet started. Then he adds for good measure, because it sorely needs it. He did not think it sorely needed it when he was writing his manifesto because there is not a mention of Varyl Begg in his manifesto. How can he now believe that Varyl Begg sorely needs implementation of the Government's refurbishment policy?

Mr Speaker, the hon Member took the opportunity to read the litany of housing deals that he offered to the electorate. He described them as the GSLP's generous housing offer. He has got a predicament because notwithstanding the generosity of his offer, he is still sitting on the Opposition benches, then he has got to search for another reason as to why he is sitting on the Opposition benches. Does it not strike him as odd that notwithstanding the generosity of the GSLP's offers to the electorate, not just in housing, but in everything else, that they are still slumped in those chairs over there? [*HON J C PEREZ: It was*

*because of the GSD's propaganda.*] I see, because of our propaganda. The hon Member obviously does not hold the electorate in very high regard, if he thinks that they increase the majority of a Government because of the Government's propaganda. The hon Member should show more respect for the people of Gibraltar than is implicit and inherent in that shameful statement.

Mr Speaker, what can one say about the Opposition spokesman for Education, Training and for Culture, even though he said not one word about culture. What can one say? One could say that he might be living in Mars and not in Gibraltar and now that I have seen on television that the planet Mars is at its nearest in its orbit to earth ever, he might have leapt from one to the other. He made a great song and dance about how the Government are conducting the change of school hours issue. Just as well that the Hon Dr Valarino is turning to the appropriate page in his manifesto because I am about to quote extensively from it, which his colleagues will not enjoy. This is what the hon Member considers an amateurish mishandling of the position, which is to start the process by internal process of consultation with the professionals in the Government's Education Department, to then extend the process of consultation to the Parents' Association, User groups and things of that sort and then to conduct a questionnaire to seek the views of parents. The hon Member should be aware that questionnaires are not referenda. Questionnaires are a mechanism by which the Government seek to find out information about what people think. It is not a contest between opposing views. If it were a contest between opposing views, he should not be criticising us for allegedly pointing people in the direction of the one hour break, which we did not do. We reject out of hand all those criticisms of the Minister's letter. What the Minister's letter did was show leadership, which is his duty. We reject the notion that there was any leading comment or leading question in the questionnaire, but had that been what the Government did, the hon Member should be in support of the Government doing it and not against it. If the hon Members look at the page in the manifesto headed "A New Deal – Education and Youth", he said "School hours will be altered to provide a one

hour lunch break". Is that not what he accuses the Government of irresponsibly suggesting, even though the teachers have not agreed with it. He was a teacher and surely he knew at the time. Surely he must have known when he wrote this that his colleagues in the teaching profession did not approve of it. He committed his party if elected into Government, unless they were going to treat this commitment as well with the same disregard that economic reality would have obliged them to treat most of their other commitments with. But on the assumption that this commitment at least was well intentioned and sincerely uttered, he was committed to a one hour lunch break. Then he accuses the Government of amateurish mishandling for, in his view, indicating a preference, which we did not, for a one hour lunch break. I do not think he should be accusing us of schizophrenia. I think he needs to look no further than his own right hand, assuming that it was his right hand that wrote this part of the manifesto. "Parents will then have the option of their children staying at school for supervised lunch". How can parents have the option of leaving their children at school for lunch, which implies an option not to leave their children at school for lunch, if there is only a 20 minute break, or does he expect children to be able to go home for lunch, eat at home and come back in 20 minutes, because that is what he means when he says, "parents will then have the option of their children staying at school for supervised lunch". Does the hon Member being the master of jumping at every passing bandwagon, put his ear to the ground, detected the fact that there was a movement in certain quarters amongst the teachers to oppose the one hour break, that now he is saying one hour break that was in his manifesto, the only one hour break that would have allowed him to comply, not only with his specific manifesto to provide a one hour break, but with his equally specific manifesto to give parents options on whether to leave their children at school or not and that he abandoned his own conviction and his own manifesto commitment in a grubby, ill thought out attempt, to curry favour in the heat of the day with the current that he detected was running in the teacher profession. It is the inevitable conclusion of the U-turn that he has done between the day he wrote this manifesto and all the nonsense that he has been uttering since. There is more evidence still

before he continues with his nervous giggle, there is more evidence still because his manifesto commitment was not just that the lunch break will be one hour, it was not just that those parents that did not want to leave their children at school would have the practical option to take their children home, but, and I quote, "The Government will provide subsidised meals with appropriately balanced diets". I am not a dietician myself and I claim no expertise in dietary matters, but I wager with the hon Member, that it is not possible to provide children at schools with subsidised meals with an appropriate balanced diet in 20 minutes. All that one can give to children in 20 minutes is guaranteed indigestion and guaranteed indigestion does not constitute a balanced diet. Everything that the hon Member has said since he opened his mouth in the current debate has been a shamelessly contradictory and politically insincere contradiction of everything that he said on the matter in his manifesto. Then this passing train had lots of bandwagons upon which he could jump and not satisfied with jumping on the first, on the second and the third wagons, he jumped on the fourth wagon as well. He then went on to say "consultation on changes of hours will be carried out taking into account the needs of working parents and the traffic". Not a solitary mention of everything that he has now subsequently made a song and dance about, about teachers and teachers contracts of employment, he has sold his own commitment, his own solemn commitment to the people of Gibraltar, for 30 pieces of tarnished silver to a momentary currying of favour with a bunch of people that from what I am told do not regard the document that he has written in that green folder, as little better than a bad joke. The hon Member appears to believe, and it surprises me, because I know that he has children of his own and that he is a good father. The hon Member surprisingly says that what the Government should be doing is first of all provide a full school day and then provide activities for the rest of the day. I do not know of any parent that wishes to dump their children in an institution all day long. If the hon Member did think that dumping ones children in an institution all day long is what the people of Gibraltar want, it is pretty much of an after thought, because there is no mention of it in his manifesto. This is obviously not part of the new deal. This is the new, new deal. The new deal did not have this vision

of kibbutz's and children in camps all day long. [HON J C PEREZ: *Or boarding schools*] Not even in boarding schools where we are subjected to the sort of regime that the hon Member wants to foist on the entire population of Gibraltar. I can assure him, as somebody who has been to boarding schools for much of his academic life, I can assure him that even those who run boarding schools are more enlightened educationally than the hon Member suggests from the position that he adopts and the things that he says.

Mr Speaker, I do not know why the hon Member accuses the Government of manipulating the questionnaire. We did not offer the people of Gibraltar anything that was not available. Obviously the hon Member despite being a teacher, does not attach to words the meaning that they ordinarily have. Or did he not notice that questions 2, 3 and 4, about which he complained because they were offering things that were not available, use the phrase "Would you approve of a 30 minute, a 40 minute break?" And that question 5, which is the only one that offered options, said, "Which of these two options do you prefer?" In that question the only two options that were offered was the one hour and the 20 minutes. Does he not know the difference between asking somebody to choose between two options on the one hand, and asking them separately whether he nevertheless would approve of certain other things, so that the Government if they have to engage in negotiations with the Teachers Union, have knowledge of what people approve of and disapprove of and can therefore use it as a parameter in those negotiations. Does that not strike the hon Member, far from being amateurish and chaotic, as being a scandal, because what he would have done, if he had been faithful to his manifesto, is presumably, he would have announced without a questionnaire that the Government were going to change the school hours by one hour. He would then have discovered that the teachers were opposed to it and then he would have no information from parents, as to whether parents would approve a half way house between 20 minutes and one hour.

Mr Speaker, the hon Member should rest assured, the Government are comprised of people, not just at its political level, but indeed at its administrative levels, that are unlikely to make the fundamental errors, which the hon Member could quite so quickly and easily spot. It would be most surprising if that was so. In criticising the Government for the alleged one hour preference, even though it is his manifesto preference as well, he ignores the fact that we have a manifesto commitment and that unlike apparently Opposition Members, we take our manifesto commitments seriously. Our manifesto commitment said that there would be a change of school hours that gave parents the option and therefore a change of school hours which in effect obliges all children to stay at school, because it is so short, is in breach of a commitment to change school hours that give parents an option. An option means the option to leave them at school for lunch or not to leave them at school for lunch. Both possibilities have got to be possible in practice for there to be a delivery on that commitment, which we both made in our manifesto, except that in exchange for some support from some of his ex colleagues, he showed a worrying eagerness, tendency and proclivity to abandon his solemn electoral promises to the electorate at large. The electorate at large would be reminded of these things the next time that the hon Members invite them to accept their manifesto commitments at face value. The hon Member worries about whether such new arrangements that are made for school hours will be ready for September. It is true that the Government have said that we would like it to start in September, but that is not set in stone, but if for one reason or another it is not possible, school hours do not have to change on the first day of the first term. It really makes little difference whether it changes at the beginning of the Christmas term or at the beginning of the Easter term, it could even start in January or even half way through a term. What is much more important is to get it right than to do it quickly, much more important.

The hon Member said that one of the two or three things that he was able to spot, was this business about the computer room being out of action for one year. It seems to me that the hon Members – sometimes I wonder why we bother to give the hon

Members information at Question Time, because they ignore it. Does the hon Member not remember being told in answer to Question No. 630 of 2001, just a few weeks ago, it is not that long ago, when he was told in answer to a question, "Can the Minister state why the library in the College of Further Education has been closed for so long?" He was told by the Minister and if he thinks that the Minister is lying to him, that is a different matter and he should have the courage to say so, but if he does not think that the Minister is lying to him, he cannot three weeks later repeat the point without regard to the explanation that he has had. The explanation that he has had was that the computer facilities in the student resources centre were dismantled in order to improve the centre facilities and to develop a new library, that all the computers were transferred to other rooms and a new teaching suite created. Students were able to use these computers at all times either for teaching purposes or as supervised additional work. So contrary to the inescapably intended insinuation of his point, there was no interruption in computer facilities at the College, and he repeats it ignoring the fact that just three weeks earlier he had been told so. The hon Member if he wants to develop that degree of political credibility, which will enhance his prospects of moving across the floor of this House, will have to behave differently to that.

Mr Speaker, I am not an expert on educational matters. I am a parent of six children and therefore I know when my children are doing well at school or when they do not, but only as a layman. It strikes me as extraordinarily inopportune for him politically to try and paint of the Hon Dr Bernard Linares, a man that has been a long part of his life in teaching; a man that has been the headmaster of Gibraltar's biggest school; a man that enjoys, politics apart, the universal respect of practically the whole of this community and certainly the whole of the teaching profession of Gibraltar. For the hon Member to try and paint a picture of incompetence, inactivity, ineffectualness on the part of the hon Member does absolutely nothing to enhance his own credibility and his own standing, even amongst the handful of teachers who support and favour what he was trying to curry on the question of school hours. Not even they think that the Hon Dr Linares is an

incompetent Minister of Education. Only he thinks that the Hon Dr Linares is an incompetent Minister of Education. I know of no-one in Gibraltar who thinks that he would make a more competent Minister of Education than Dr Linares. No-one. I doubt I will find even such a person in his own party, let alone in the ranks of the party with which he alleges to be in an alliance. That is not to say that he cannot criticise the Hon Dr Linares for this action or for that measure or for this policy, it would be perfectly understandable. No-one can suggest that the Hon Dr Linares gets everything right, but that would be a very different political manoeuvre than to try and paint him and write him off as an incompetent oaf, which is what the hon Member has thought to do, with about as much credibility as he enjoys.

The House recessed at 5.40 pm.

The House resumed at 6.00 pm

HON CHIEF MINISTER:

Mr Speaker, the Hon Miss Marie Montegriffo delivered her usual diatribe on the Health Service. What strikes me most of all of the hon Lady's scatter-gun approach is that she constantly makes assertions intended to show that there is some sort of problem or worse, crisis, in the Health Authority, but that she never actually specifies what she thinks it is. She says that complaints continue to pour in and that "never in our history have so many complaints arisen as now". There are two things that I have to say to that, one is that I think she is mistaken for the fact that if people complain now, reflects the fact that there is more to complain about. I think it is much more likely to reflect the fact that in the new Gibraltar, people feel free to complain without fear of vindictive reprisals as used to be the case. The hon Lady believes seriously that there are now more complaints, which we dispute, than there were in her time in Office, then I believe that she is mistaken. The Government understand the fact that the Health Authority that we inherited was in grave need of attention and has systematically been given that attention to it since. The job is by no means finished. No Health Authority in the world,

however much improvement one instils in it, is ever going to be free of complaints. But certainly she cannot claim that there are more complaints now than before and she certainly should be careful of the usage she makes of those statistics. The reality of the matter is that whereas last year the Health Authority attended to 41,265 patients, there were 77 complaints. The fact that the hon Lady picks up a few letters in the Chronicle; the fact that two or three disgruntled users of the Health Service visit her in her office, should not lead her to believe that she can justifiably paint this picture of doom and gloom and crisis about the Health Authority. Seventy-seven complaints from 41,265 patient care instances is a very good record, if, which we do not do, she measures the state of the Health Service by the number of complaints. We think that there is more to put right in the Health Service than is reflected in the level of complaints. That the level of complaints themselves, taken in isolation, are actually very good and all of those 77 complaints are not about the quality of clinical care. Some of them are about waiting times. Others are about the bedside manners of doctors or some individual members of staff. Still in total only 77. She makes reference to this business about elderly persons blocking beds as if it was some sort of excuse that the Government were providing. It is not an excuse, it is an explanation, does she understand the difference? It is a factual explanation. There are 40 beds blocked by elderly persons who are not in need of hospital clinical care. That is an inescapable fact. This is not a value judgement. This is not some sort of invented figure. There are 40 people in the hospital of whom the doctors say – the doctors, not the politicians – that these people should not be in hospital. This is not an excuse, this is an explanation and the Government do not just utter it and remain idle. The Government utters it and then do something about it, which is to invest into Mount Alvernia, the funds of which they denied them, to be able to have a proper residential home, a proper nursing home facility in Mount Alvernia with geriatricians and nurses to unblock those hospital beds, to increase the capacity in Mount Alvernia as well as the nursing and medical care available to them, namely the quality of the care. It is simply not true, the hon Lady is responsible for what she says in this House. It is simply not true that my Colleague, the Minister

for Education and Health, said that some members of staff were sabotaging the hospital. He did not say anything of the kind and she asserts it - I do not know what she heard, it could not have been that, he did not say that. She is wrong and she is misleading this House, I cannot say whether intentionally or through ignorance, when she says that it was not her Government that closed the nursing school. She is wrong in her assertion that it was Mr Peter Cumming who closed the nursing school. She should know and she should not provoke me into asserting in this House publicly what happened with Mr Peter Cumming and what it was that the Government were trying to get Mr Cumming to do – I now remember the Hon Mr Perez trying to taunt us about whether there were instances of cronyism. She should know what it was that the Government were demanding the nursing tutor to do, which he refused and they then in retaliation for his refusal transferred him away and then let the school close and did not replace him. Or was Mr Peter Cumming the Minister for Health. Did Mr Peter Cumming have the power to close the nursing school? And if Mr Peter Cumming had powers to close the nursing school, which he did not do, why did the Hon Lady not reopen it? She kept it closed. She starved it of resources and personnel as part of her commitment to choke off the avenue for more qualified nurses into the service pursuant to their policy of promoting unqualified nurses. That is what she did and everybody in the hospital knows it. No need for us to argue about it. Everybody knows it. The hon Lady, if she does not mind my saying so, is on the issue of the Health Authority, a politically dishonest coward, and I am going to tell her why she is a politically dishonest coward. On the one hand, she says that the Health Authority is a ship without anybody at the helm, then, and here is the element of cowardice, because she is unwilling to risk alienating even more than they already have, the staff of the Gibraltar Health Authority, they pour praise on the staff of the Gibraltar Health Authority. They are the saviours of the Gibraltar Health Authority, the dedicated staff and then she complains that the service is in crisis, that it is terribly negligent, that it is terribly inefficient. Who does she think delivers this negligent and inefficient Health Service. I do not think it is a negligent and inefficient Health Service, but if it were a negligent inefficient

Health Service, it is delivered by the very same staff that she pours praise on, because she has not got the political courage to criticise them, or does she think that the Minister is the man who discharged the old lady whose example she wrongly gave and that it was he who threw her out of the ward and that it was he who sent her down to the lobby of the hospital before the family could arrive to take her away. That incident did not happen in that way, but if it had happened in that way, it would not have been the actions of the Minister, it would have been the actions of employees of the Health Authority, whom she thinks are the saviours and is unwilling to criticise. That is the politically dishonest and cowardly aspect of her approach to the criticism of the Government in the Health Authority. When she is pointing at the Government, the Health Service is in crisis, rudderless, dangerous and chaotic and when she is looking at the staff that deliver the Health Authority, they are saviours and something that we should all be proud of. Indeed, we should all be proud of them because none of what she says and the alternative is true either, but she cannot have it both ways. She cannot heap praise on the staff and then describe the service that they deliver as chaotic. At least she cannot do it with any degree of sincerity or credibility.

The hon Member could criticise the Government if she wanted to for denying the hospital funding and then the staff could say that they are starved of resources and therefore we cannot give the service that we would like, but she cannot, because funding of the Health Authority stands at record levels. She could say that it is the fault of the hospital manager, the Chief Executive of the Health Authority, but she cannot, because it is the same Chief Executive that they had. She could say that the chaos is due to the absence of a complaints procedure, but she cannot, because there is now a complaints procedure and she did not have one that was usable. She could say that the chaos is due to the fact that there is a starvation of nurses and doctors in numbers, but she cannot, because there are more nurses with more qualifications than before and there are more doctors in more disciplines and in existing disciplines than they had. Those are the things for which she could criticise the Government legitimately at a political level, but she cannot, because none of

them would be true. Instead she applies the machine gun scatter approach, a deterioration of the Health Service, when there are more resources, more doctors, more nurses. Then she says that the thing is in crisis, but that we have got an excellent staff thank goodness. I do not know who she considers is hearing her with any degree of credibility. Of course, there are instances of individual cases of people, as happens in all hospitals, who are more or less ill-treated in isolated cases. But she cannot use those isolated cases of disgruntlement to lodge the sort of criticism of the entire service as she does. The Health Authority, I say this to her looking her straight in the eye, is infinitely better now than at any time that she presided over it. Better resourced, better managed, better staffed, with better clinical practices, with better clinical protocols and most important for all, without political interference in matters of clinical judgement, which she used to practice on a systematic basis.

Is it not the reality of the matter that this is another example of what I said before, of the Opposition scrounging for ways of neutralising the attraction to the electorate of things that the Government do, which the Opposition believe will be positive for the Government and negative for them, like they did with Bishop Canilla House, with Edinburgh House, Casemates Square, everything that the electorate applaud, they find a way of tarnishing. Is it not the reality that all this campaign against the Health Authority, which whether she likes it or not, she is doing at the expense of the professional integrity and the morale of the people who are leaving their sweat there working in it, does she not realise that at the expense of those people and at the expense of the people's confidence in Gibraltar's Health Authority, all she is trying to do is to neutralise, to tarnish what she knows will be a very popular occurrence, which is the opening of the new hospital. Is it not the case that all that she says about the Health Authority is nothing more and nothing less than to plunge the Health Authority into a crisis to neutralise the impact of the new hospital and before she denies it, there is circumstantial evidence of it because after she had finished denigrating the Health Authority despite the brilliance and excellence of the staff that deliver the medical services, she left the cat out of the bag and I

quickly scribbled it down. She said "the Health Authority is sicker than ever", and now the cat comes out of the bag, "and will not be fixed by a new hospital". Hon Members will see how she links in her mind the question of the state of the Health Authority as a means of neutralising and tarnishing the new hospital. She is not clever enough to do it without actually admitting it. "The Health Authority is sicker than ever and it will not be fixed by a new hospital". The object of alleging the sickness therefore is just to add that it will not be fixed by a new hospital. The new hospital to which they had absolutely no commitment [*interruption*] no, it was an afterthought after they read our manifesto. Mr Speaker, we had their manifesto, most of it in grubby paper, and when the documents had come back from the printers and in the meantime they had seen our own manifesto and they realised it had a commitment to a hospital, they rushed to print an insert in different print, different colour and different quality paper, which they shoved into the middle, even though that is not where the health section is. It was an afterthought, everybody knows that it was an afterthought. They had no intention of having a new hospital, just as they had never signalled an intention to have a new hospital in the eight years that they were in office. Why did they suddenly discover after eight years in office when they chose not to even start the project, not to even announce the project, not to even debate the possibility of the project, they send their 2000 Election Manifesto to the printer. After the manifesto comes back from the printer, they realise what an electoral gab they have made and they rush off to have an insert printed. It is in different paper. That is the purpose of her selfish, inaccurate, systematic, staff demoralising, staff insulting assault on the Gibraltar Health Authority despite the unquestionable existence of areas that require improvement and of areas in which individuals may have isolated justification for legitimate complaints. It was not us who said in Opposition that the Health Authority under her stewardship had fallen to third world standards, it was a report, not us.

Mr Speaker, the hon Lady continues to show her ignorance on matters of health when she continues systematically to describe the Government's medicines policy as being cheaper medicinal products in order to save money, as if, saving money without

falling standards was something to be ashamed of. Saving taxpayers money from being wasted by pouring it into the pockets of branded product owners and pharmacists and wholesalers in Gibraltar, was a scandalous pouring down of taxpayers money down the plug hole over which she chose to do nothing. All over the civilised western world, generic medicines, which are from a chemical point of view indistinguishable from their branded products are used everywhere at a fraction of the cost and she in the blind ignorance that characterises her dealing with these subjects continues to assert that somehow they are less valuable, less effective from a medicinal point of view, ignoring the fact that it is the doctors that have agreed to the formulary, that it has been presided over by pharmacists, over which there is no political influence or manipulation whatsoever. She should not confuse her own ignorance with the ignorance of the professional people who are presiding over this system, nor with the ignorance, which implicit in her assertion of health authorities throughout western Europe, indeed throughout the western world. It would be terribly odd if they were all prejudicing the health of their population just to save money and the only luminary in the entire western world that believes in the need to pour taxpayers money down the drain simply to have a prettier box in which to contain exactly the same medicinal property, that that is somehow prejudicial to the Health Authority. How ignorant and arrogant can the hon Lady get.

Mr Speaker, the sacking of Dr Rassa was for much greater reason than the hon Member had deployed to sack the consultant that she sacked when she was in Office. Does the hon Member not remember sacking the ophthalmologist? She is saying no, she cannot remember, whom she sacked for no greater crime than challenging her decision privately to her. That we should have sacked a consultant for breaching every duty that he has to his employer, for breaching every duty of confidentiality to the patients, for publishing private correspondence of the journal of the medical Health Authority, for refusing to attend work unless his unacceptable and unreasonable conditions were met, for staying away from work until the Government agreed to alter the management heirachy of the hospital, sacking somebody for that reason is absolutely inevitable. The Government had no choice



but to sack this man, as opposed to her who simply sacked a professional consultant out of sheer political pride, a doctor in the Health Authority who had dared to question, privately to her, the wisdom of a policy which she wanted to implement.

Mr Speaker, the hon Lady makes a grave mistake when she takes up the cause of every disgruntled user of the Health Authority without even bothering to check the facts first. I do not deny that there will be cases in which the Gibraltar Health Authority is entitled or justified or warrants being the subject of criticism, but the hon Member, if for no better reason than out of respect for the professional people and the nurses and the doctors that she claims to respect and praise, to such an extent, if only out of respect for them, never mind us, we do not need respect from her, she should take the trouble to check the facts before she uses individual cases for her own sordid political ends. It is not true that the 78 year old lady in question was discharged from hospital because there was not a bed available. It is not true. There was no shortage of beds, [interruption] there lies the danger of reading the Gibraltar Chronicle's letters to the editor's page and simply relying on the facts therein stated and bringing them to the House, something which incidentally Standing Orders have something to say about. Notwithstanding what Standing Orders says, she then assumes responsibility for the accuracy of those statements. No surgical operation has been cancelled to date because of a shortage of beds and this case, the case of the lady in question, does not fall into that category. In the particular case to which the hon Lady referred, the operation was cancelled because the surgeon had to attend to a new urgent case, which in his clinical judgement carried medical priority over elective surgery of chronic conditions. In any case, Mr Speaker, in order precisely to manage the bed situation, patients due for an operation come in the day before but are not actually admitted until the following day when the operation is due unless the contrary is indicated by clinical necessity. So not even that part of her attack was she able to get accurately.

I do not know who the hon Lady was gratuitously insulting when she said that the Government have a party propaganda machine

paid for by the taxpayer. I do not know whether she was referring to GBC. She did not have the courage even to mention the name. I assume knowing them as I do and hearing remarks that I have heard from them privately, I assume that she is referring to the Government's Press Officer, and I think it is scandalous that the hon Lady should hurl an abuse of that nature at a Crown Officer employed under contract by the Crown who is not in this House to defend himself. If the hon Members insist on challenging me to name cases of cronyism on their part, not that there is anything unusual or cronyistic about appointing a Press Officer, all governments do it, but, if they insist on challenging me on naming cases of cronyism on their part, the hon Lady must be aware that I would not be short of examples. That indeed one of the reasons that they were booted out of Office, because the people of Gibraltar had come to the view that cronyism was endemic in their system of Government, not isolated cases, cronyism, not just in the appointment of people to jobs, but indeed, in the handout of Government contracts of a commercial nature. Endemic and systematic in their whole corrupt approach to Government that they deployed in the eight years that they were in Government or was the gentleman that they appointed plucked from the streets, from the ranks of their own party activists, to become a sub-delegated tax collector, was he appointed after a public process of recruitment or was it "nombramiento al dedillo". I am only responding to the hon Members challenge to name just one instance of cronyism. Because he has only challenged me to name one instance of cronyism, I have limited myself to one instance of cronyism. I could be here until midnight naming instances of cronyism on the part of the hon Members.

Mr Speaker, there is no acute shortage of beds. There is no reduction in bed numbers. It is not true, as the hon Lady continually asserts that there has been a reduction in bed numbers. Discharges from hospital are not done prematurely, they are done when the consultant responsible for the case, in exercise of his clinical judgement, without any political interference, which there cannot be given that she thinks that there is no political helm at the Health Authority. If there is no

political helm to manage the Health Authority properly then there is no political helm to direct consultants as to when they have to discharge their patients. Patients are discharged only when the medical judgement is to that effect. If the hon Member thinks that it is possible to run a hospital on the basis of patients with no medical training or knowledge deciding when in their judgement they should be discharged, that is not the proper way to run a hospital and she cannot criticise the Government for not running a hospital on that basis.

Mr Speaker, she has accused the Government of hypocrisy and opportunism in relation to the Health Authority. I am not going to engage her in debate on that allegation. I simply say to her, let us allow the electorate to decide who practices hypocrisy and opportunism. They have already spoken twice. The electorate has already answered that question twice. In the United Kingdom, when the electorate speaks once and unseats the Government, Leaders of the Opposition resign, as we have just witnessed in the United Kingdom. Here Opposition leaders that do not resign and make way for others, even after two electoral judgements against them, not only do not resign, not only accuse the successful party of hypocrisy and opportunism, they are not satisfied with that, they pronounce that they are here for another 12 years. Mr Speaker, the electorate will decide who is hypocritical and who is opportunistic. It is not that we will not provide private patient waiting lists. It is that it is not relevant to the question of the length of time that public patients have to wait. Why? Because unlike the situation that used to prevail when she was the Minister for Health, private patient waiting lists, private patient surgical interruptions no longer have the effect of extending the waiting time of the public waiting lists. The hon Lady had the audacity to say that waiting times are longer now than they were when she was in Office. It is simply not true. We know from people that were there for both us and them that there were no records of public waiting lists. That they had no idea what public waiting lists were and that when they gave statements to the House, as they used to do with the unemployment statistics, or do hon Members not remember that debate that we had shortly after the 1996 election when we demonstrated that

they used to doctor statistics systematically. The hon Member is living in cloud cuckoo land if she believes that waiting lists are longer now than before.

Mr Speaker, I would have thought that the most politically astute thing for the hon Lady to have done in relation to sport was to stay silent, to keep her head well below the parapet wall. That would have been the safest place for her to keep her head politically on the subject of sport because the reality of the matter is that no Government have ever committed more funds, more ministerial effort, more political commitment to the development of sport than this Government. Not just in the massive capital investment that is being made in the extension of the Bayside Sporting Complex, but in the expenditure on sports development, in the funding of sports organisations, in the extent to which we consult the sports fraternity in establishing sporting priorities. She may be disappointed that the new sports stadium is not going to be ready until 2003, but this is something that they never did. In eight years that they were in Office, they never extended the sports facilities. All right, they laid the astro turf on the existing pitch, which was paid for by a private property developer, but they in eight years in Office showed no commitment to expanding sports facilities in Gibraltar. The Government issue their manifesto, publish their intentions, the hon Member scribbles into it one and a half lines saying not that they are committed to the concept of the sports stadium, but that they will honour the commitment made by the then incumbent Government to the sports facilities. She complains that she still does not know what the new sports stadium will contain. She must be the only person in Gibraltar that does not know what it will contain. It is not that the Government are not giving public indications on this. What it will contain is what the Sports Advisory Council, in which the sports fraternity of Gibraltar is democratically represented, has advised the Government that it should contain. I tell her that in case she wants to rush to criticism of the list of contents as soon as she is aware of it. I would not want her, just as the Spokesman for Education does not want to alienate any teachers and she does not want to alienate any hospital workers, I would not wish her to risk, incurring the risk even, of alienating any sportsmen. Before

she rushes to try to tarnish the sports stadium by saying that it contains this instead of that, she should remember that it is the sports fraternity themselves that have decided the content. A friendly political warning because I would not wish her to suffer unnecessary political damage if she deploys the usual Opposition approach to these things.

I am sorry that it has taken so long to relocate the small boats fraternity from Western Beach. At the end of the day it is in the MODs hands when they agree to release the site. All I do know is who put them in Western Beach in the first place, that is what I know.

Mr Speaker, the hon Member will be pleased to note that the Government indeed provide extensive assistance on an almost comprehensive basis to any sports association that wishes to engage in their legal challenge over their exclusion from any international federation and that indeed the Government are considering formalising the present ad hoc arrangement by establishing a trust fund to provide financial support, which sports associations can seek to uphold their international sporting rights.

I do not know, given that the Leader of the Opposition did not mention the telephones, the fishing crisis or identity cards, I do not know if her diatribe in relation to that, signals that she is mounting a challenge to the Leader of the Opposition to take his job. I know that the post of leader of that party is very much up for grabs and open to bidders, but it appears from that intensely political party speech in an area that would normally fall to the responsibility of the Leader of the Opposition, signals that she has thrown her hat into the ring for a leadership challenge. If she is, she appears to be in competition with the Hon Dr Garcia, who apparently also aspires to participate to the leadership challenge, given that he also talked about ID cards, fishing crisis and driving licences, none of which was covered by the Leader of the Opposition, whose political responsibility in that area would normally be. We await developments in the ranks of the Opposition party with interest.

Mr Speaker, I much regret the hon Lady's parrot repetition of what she has heard some of her colleagues say about this business of Government's policy of appeasement, which if it continues, Gibraltarians will be the losers. There is no policy of appeasement. I believe that most Gibraltarians judge that the Government have struck a proper responsible prudent balance between the upholding of our fundamental and important international political interests with what is necessary to ensure that this community prospers economically, therefore socially and that the people of this community are able to continue to enjoy the standard of living which they presently enjoy and are not exposed to the risk of losing all of that to join the hon Lady eating baked beans in a barricade whilst she fights the whole world. I believe that the electorate judge that to be the case because I have too much respect for the people of Gibraltar to believe that they would return to Office with an increased majority a party that they think are appeasers at the expense of the vital international interests of Gibraltar. If the people of Gibraltar were willing to return to Office a party that are what the hon Lady says that they are, it must say even more about the lack of attraction of the offer that they represent, because if the hon Lady thinks that we are doves and notwithstanding that we are doves, in her judgement, the electorate returns us to Office knowing what she knows about what the people of Gibraltar thinks about doves and appeasers, she should look at herself, she should gaze at her navel and say "how come, notwithstanding the generosity of my offers, how come, notwithstanding that my opponents are a bunch of appeasing doves, how come the electorate still prefers them over me?" Do they not realise that if they say some of the things that they are saying here, that they are bound to ask themselves that question.

The Hon Mr Perez launched into his now annual assault on my Colleague the Minister for Housing, insinuating, as he always does, that somehow his history as a trade union branch officer, is inconsistent with his behaviour subsequently in Government. I do not believe that that accusation is justified. If it were, he, is the last person on whose lips such an accusation should be found, given that another past branch officer of the Transport and

General Workers Union, namely, the Leader of the Opposition, the Hon Mr Bossano, having used that power base, having used the working class vote to reap political office, then he spent the next eight years [*HON J C PEREZ: The Chief Minister has not answered one thing today. That is cheap political gimmick and propaganda, which is what we have all been saying. The Chief Minister attacks and does not reply to anything. It is a shame, never seen in this House before.*] then spends the next eight years oppressing the very workers that have put him in Office. Privatisation, of which Mrs Thatcher would have been proud, without consultation and with intimidation techniques, under resourcing of Government departments pursuant to secret agendas to eventually eliminate them and privatise them... [*HON J C PEREZ: None of this is true. He is not proving anything here. He is just inventing them over and over again. One can take as much as one can take. He is inventing things. He is abusing his powers of reply in the knowledge that we cannot reply back and he is distorting the truth and inventing lies.*] Mr Speaker, I have not given way. Not only that, but systematically increasing their tax burden, more highly on the lower paid than on the higher paid and he has the audacity to accuse the Minister for Housing of acting inconsistently in political office with his trade union credentials? There is no bigger monument to that behaviour than has been witnessed after eight years of GSLP Government. The hon Member will have to explain why they ended up not being on speaking terms with the Transport and General Workers Union of which they claim to be proud members. [*HON J C PEREZ: The only one we could not speak to was him because he was already a candidate for the GSD and he was working for them for their political benefit and for their political opportunism.*] I regret that the rules of the House do not give the hon Member the right to respond to my response. I appreciate that it is annoying to them that the right of reply belongs to the Government and not to the Opposition, but it is a right that they enjoyed liberally for the eight years that they were in Government. Does he not remember the attacks to which the Leader of the Opposition then subjected the hon Members? [*HON J C PEREZ: No.*] Everybody else does. What is the point of all these things that I am saying? Only to show that the hon Members speak with forked tongues. That they

now profess commitment to principles. That they now assert things as truisms. That they now chastise the Government on issues of which their record is even worse and does not entitle them to. I am entitled to impugn the credibility and the sincerity, which is attributable to the statements that they now make. Mr Speaker, one of the mistakes that the hon Member used to make and continues to make is this refusal, constantly rubbishing the taking of expert advice from consultants. If he had done more of the opposite more frequently, perhaps we would not have now so many calamitous messes as we have. The point is that it is not true that we have said as he attributes to us, now for the first time, that the Government are willing to put more resources into the Post Office and to the Buildings and Works Department and to the Electricity Department. The Government have said that publicly and frequently from the outset. What we are saying is that we are not willing to put more resources into a system and a structure that does not work. We are willing to put in more resources but not put money after bad. In order to independently advise us all as to what can be done to improve the structure into which the Government are willing to invest more funds, we seek outside independent guidance precisely to avoid the parochial tribal suspicions that exist domestically about suspicions of agendas and political agendas and things of that sort. What these experts tell us both is objectively what it is that needs to be reformed. The Government are doing so on a broad front, Post Office, Electricity Department, Buildings and Works Department and the Port. We have not delivered completion of any of those exercises but we are confident that we will and if they succeed, they will represent the biggest wholesale reform of the public sector ever implemented in Gibraltar. Not reform as the hon Members tried to implement at the expense of the workers, at the expense of their job security, at the expense of their guaranteed earnings, but to impose the conditions of workers to enhance. [*HON J C PEREZ: The Chief Minister carries on inventing lies without proving what he is saying. He is not proving anything that he is saying.*] Mr Speaker, I do not think we can throw the rules of the House out of the window altogether.

MR SPEAKER:

The rules of the House is in reply to what has been said.

HON CHIEF MINISTER:

Indeed. Everything that I am saying is a note next to something that they have said. Mr Speaker, the hon Member will be pleased to note that there has been a reduction over five years in telephone charges, already of 30 per cent and we expect more. Given that they privatised the telephone industry and I think it was one of the better things that they did, that the Government are not going to privatise an industry and then interfere politically in how that corporation is run commercially. What we are going to do, which they did not do, even though the directives were due for implementation, is to create a competitive environment in which there can be proper competition, which will further drive down prices.

Mr Speaker, I am not going to reply to the hon Member on his repetition for the fifth time of the alleged Government U-turn on "350" and "44". I am not going to address him again on that. The Government have made their position both inside and outside of this House crystal clear. There has been no change in that position, but what the Government will not do is to fall into crude political traps laid by Opposition Members, which suggests that even settling problems with serious consequences to the economy of Gibraltar, even if it can be done without making political concessions, that somehow that is wrong. We have said so before and will say it again and we will stick by it, regardless of the views of the Opposition, the Government will solve as many problems which threaten Gibraltar's economic prosperity as the Government can resolve without making concessions on anything which is of fundamental importance to Gibraltar whether it be in the political field or in the economic field. He describes the "44" from Spain only solution as a concession. It is not a concession. Unless one is as anti-British as they sometimes sounded, changing a Spanish area code for a British area code is not a political concession to Spain. The political concession to Spain,

which the Government are doing all that it can to resist, would be to abandon "350" from countries from which it has been used, but to say to a country that is not using "350" and from which one can only telephone Gibraltar by dialling the Cadiz area code, "From now on you do not ring Gibraltar from Spain by dialling a Spanish area code, you ring Gibraltar from Spain by dialling a British code", I do not know of anyone that would regard that as a political concession to Spain. I do not want the hon Member to feel that he has the political ability to create cul-de-sacs for the Government. He should know, because I believe the electorate confidently believe it, that the Government know what is of fundamental importance to Gibraltar and know how to defend it. If to save some greater interest of Gibraltar the Government thought it necessary to make a much smaller concession to Spain on an issue which is of no fundamental political importance and which does no fundamental political damage to Gibraltar's aspirations, know ye gentlemen on the other side of the House, that the Government would not hesitate in prioritising Gibraltar's full range of interests. If the hon Member thinks that he has about him the wit to make the Gibraltar Government plunge Gibraltar into economic crisis because of some mortgaging of the Government, not to our policies, but to theirs, they had better think it out again. It is not going to happen that way. It is not going to happen. The Government of Gibraltar will do on each and every occasion, what they judge to be in Gibraltar's overall interests, in the knowledge of what is fundamentally important to Gibraltar and to which there has been no concession or compromise. It is not true that people are disconnected from the telephone willy-nilly. No one is disconnected from the telephones until they have been in arrears of three monthly bills. He has had this explanation in the House before. I accept and agree the hon Member in his assertion that Gibraltar must preserve its self sufficiency in the electricity field, but of course, it was not my Government that signed a co-operation agreement with Sevillana De Electricidad SA, and it was not my Government. [HON J J BOSSANO: *Neither did I.*] Is the Leader of the Opposition denying that he has signed this co-operation agreement with Sevillana? [HON J C PEREZ: *What is he suggesting about Sevillana?*] So far all I have said is that the hon Members signed a co-operation agreement with the leading

supplier of electricity in Andalucia. It may have been to waste paper or to waste time or because they wanted to buy coffee from them instead of electricity. All I am saying is that they signed it and it was not this Government that starved the Electricity Department of human resources and capital investment in a way which would have guaranteed.....

HON J C PEREZ:

Mr Speaker, the Chief Minister has got it wrong, if he would like to give way I will explain it to him.

HON CHIEF MINISTER:

The hon Member rather than arguing with me about it, should ask the staff in the Electricity Department.

HON J C PEREZ:

I do not need to ask the staff, I know what was in the Government's agenda. Mr Speaker, a point of order.

MR SPEAKER:

What is the point of order?

HON J C PEREZ:

Since the Chief Minister is talking of looking at Standing Orders, let me tell him that according to Standing Orders, in his reply he is restricted to matters related to during the debate and shall not introduce any new matter. What is he talking about Sevillana? No one talked about Sevillana.

HON CHIEF MINISTER:

I have not introduced a solitary new matter. I am responding to what the hon Members have all said in the well established manner to which this House has grown accustomed over the years. If the hon Members hear me mention a subject which is not in response to what they have said, then they can make the complaint that he has just risen.

The hon Member, for example, referred to the existence of traffic chaos that continues. Where and when? Certainly I am aware that as happens everywhere in the world, at peak times, there is more traffic and it takes longer to travel around than at non peak times, but there are no traffic bottlenecks in Gibraltar, other than at peak times as there has always been. Which junction is he talking about? The junction of Corral Road and Glacis Road has never been more fluid than it is now. The Government are eliminating traffic lights from all over the place.

The Hon Dr Garcia is disappointed with the budget because people expected more. I do not know what people he is talking about. Presumably he means him. I am sorry if I have not reduced his taxes by as much as he would like, but at least he lives in a Gibraltar where taxes are lowered as opposed to a Gibraltar where taxes are raised, which was a Gibraltar over which his new party leader used to preside. According to the Hon Dr Garcia, people have had enough of chameleon Government. If they have had enough, it must have been in the last 12 months because they had not had enough of it at the time of the last election when they returned us with an increased majority. I do not know what he means by chameleon Government. The Hon Dr Garcia himself has twice been rejected by the electorate and had to sell his political soul to the GSLP in order to secure a seat in this House. I do not know who is a chameleon. The hon Member who has had his views repeatedly rejected by the electorate calls a chameleon, a political party that has just been re-elected by the electorate. He must obviously think that the people of Gibraltar like chameleons. Perhaps therefore he should become a chameleon himself. I do not know what he means by

being a chameleon, I do not know what changes he detects in the Government. I thought the complaint was that we keep on repeating the same stuff year after year. Is that not the opposite of being a chameleon? A chameleon is something that changes its message. Their complaint is that we always stick to the same one. I do not see how that can possibly be being a chameleon.

Mr Speaker, all the Advisory Councils meet as programmed by their various establishing documents. He complains that the Economic Advisory Council only meets four times a year, apparently ignorant of the fact that it meets quarterly. When I went to school, quarterly is four times a year. It meets quarterly because that is what its establishing minutes say. These Advisory Committees are not kitchen cabinets. They are not Government substitutes. They are not engaged with the day to day running of Gibraltar. They are regular opportunities for others to express their views to the Government. Some meet every two months. Others meet quarterly and this is what these things are. It is better than not at all, which is what we used to have before. The hon Members make this point about the difference between what the Government say and do in a stigmatic attempt to pretend that nothing is being done and that everything that the Government say they are doing is not in fact doing. Does the hon Member believe that the people of Gibraltar walk around with blindfolds on? That they cannot see and, more importantly, feel what the Government are doing in Gibraltar. It is true that we are getting increasing record number of day visitors and that there is some evidence that they are spending less. That is because of the strong pound, which is outside of my control. All that I can do to make people that are attracted to Gibraltar in record numbers spend more in our shops is stand at the frontier with a ward of pound notes handing it out to the tourists saying "enter my shop". How else can the hon Member suggest that the Government might make record numbers of visitors spend more in our shops, or does he think that he has some secret solution to the fact that the pound is stronger against the euro to the point where Gibraltar is 35 per cent less price competitive with Spain than it was three years ago. This is an economic reality and it is a nonsense for

the hon Member to make that political point in a local political debate.

The hon Member spoke about the need to bring down the cost of doing business. The Government would like to and try to and do what they can with import duty and rates reductions, rent reductions, things of that sort. If he understands the economy of Gibraltar, he has got to understand that we have an economy of scale problem. That doing things for ourselves like generating electricity, which his hon Colleague believes Gibraltar must ensure it always does, has a per unit price cost, which means that generating electricity in Gibraltar is more expensive than in Spain and that water in Gibraltar is more expensive than in Spain, and that public services in Gibraltar are more expensive than in Spain and that telephones investment in Gibraltar is more expensive than in Spain. There is a limit to what the Government can do to compete in an economically sustainable fashion against a territory which has lower costs because of their greater economy scale. He knows enough about the economies of government finances to know that there is a limit to what the Government can do to insulate consumers in Gibraltar from the fact that we are a small community that for political reasons wants to do things for themselves at greater costs so that we do not become dependent on our neighbours for them. That has a price tag. One could reduce the cost of doing business in Gibraltar by throwing an electric cable across the border, by throwing a water pipe across the border and importing very cheap electricity, water and telephones, at the cost of an enormous number of jobs and at the cost of political dependence on our neighbours. The decision, which I suspect we all share not to do that, comes with an economic price tag, which is reflected, not just in the higher costs to business, but indeed in higher levels of personal taxation for everybody in Gibraltar than elsewhere where they can share the collective cost of doing things over a greater number of consumers. The hon Member raised the state of protection, with the next breath, having urged the Government to reduce the cost of doing business, he then says why has not the Government done anything about data protection. Mr Speaker, the Federation of Small Businesses in the United Kingdom has spent three years

lamenting the way the British Government have introduced the Data Protection directive, because it is a millstone around the neck of small businesses in terms of higher costs. We, and it is a massive drafting job to do it differently to the UK, which we are doing to save Gibraltar's small businesses from the fate suffered by UK small businesses precisely in order not to expose them to higher business costs. So when he urges the Government to rush into data protection legislation, he should understand what the legislation entails. It is not just about e-commerce protection. It puts a massive administrative burden, systems burden, compliance burden, information management burden, record keeping burden on small businesses that would greatly increase their costs and rather than pressing us to get on with it quickly, he should actually be pressing us to do it in the most small business friendly way, which is what we are doing. To get the UK legislation copied and put it on our statute books, that we can do next week. It is done. An English draftsman has done it for us months ago. I have just told him the reason why we have not done it.

Mr Speaker, I honestly do believe that the hon Member makes too much of a fuss about this business of the coach park in La Linea. If coaches stop coming into Gibraltar, presumably he agrees with me that no one comes in a coach from the Costa del Sol to visit La Linea. People get into a coach in the Costa del Sol to visit Gibraltar. I do not believe that a lot of coaches are going to stop coming into Gibraltar as vehicles and park in La Linea, but if they did, it would not be bad news. Gibraltar wants the contents of the coach, not the coach itself. Imagine the bliss if we could have 14,000 coach loads of passengers without suffering the traffic danger of 14,000 coaches on our streets, because the coaches themselves contribute next to nothing to the economy. It is not the coaches, I wish they would all stay in La Linea.

The House recessed at 7.10 pm.

The House resumed at 7.15 pm.

HON CHIEF MINISTER:

In conclusion I just have three quick points to make to the Hon Dr Garcia, who has contrived to find a way of criticising even the Casemates project, which most people would acknowledge as being a valuable contribution to life in Gibraltar. He says that there are less land frontier visitors this year than last. This, Mr Speaker, highlights the danger of making large political points on the basis of one or two months statistics. He may not know it yet because he does not have the May figures, but he will be relieved to hear that the figures to the end of May have an increase over the first five months of 25,600 visitors. So there is no decrease in the number of tourists from January to May and I do not want him to think I am excluding June. I do not want him to think I am excluding June and that I do not have the figures for June. This is only half way through but certainly from the 1<sup>st</sup> January to the 31<sup>st</sup> May, there were 25,600 more people than even last year's record. The hon Member insists on comparing Gibraltar to Malaga for cruising purposes. If the Government were able to keep pace with Malaga, which is one of Europe's, if not the world's, leading tourism destinations, then he would have no hope of ever unseating this Government from Office. Such would be the scale of our achievement. Mr Speaker, that the hon Member should think that Gibraltar can compete as one port with a port that services several hundred kilometres of Spanish coastline is really not a realistic proposition, and that he should compare Malaga airport and its growth to Gibraltar airport, is even more disingenuous, given that Malaga airport services destinations from all over the world and that he knows that for political reasons we are hard put to attract to Gibraltar airlines other than from the United Kingdom. So how he thinks Gibraltar could keep up even on a pro rata basis – I realise he is not saying, why do we not have eight and a half million passengers, that he is comparing the percentage growths. But even so one cannot compare the percentage growth of an airport that has the whole world to seek growth from with an airport that can only seek growth from one market, namely the United Kingdom, and although we have tried to do it also from Morocco, it has proved to be commercially unsuccessful.



My very last point is that the hon Member slightly distorts the point when he says that he does this calculation of new visitors and hotel assistance scheme and says "the cost to the Government is therefore so much per £1,000". That is a nonsense. He must know because we have told him often enough that this does not cost the Government a penny in terms of capital. That this is a loan which is to be repaid. The investment is by the hotel owners. The confidence in the future is from the hotel owners. It is their money that they are investing, given that it is a fully repayable loan to the Government. Therefore it does not cost the Government, unless one wants to draw a very complicated calculation of what it costs to the Government, given that the interest payable is not the commercial rate and I suppose the cost to the Government is the difference between the interest rate actually being paid and the commercial rate. That is not the point that the hon Member was trying to make. Therefore, Mr Speaker, having responded both at a technical level and a political level for all the points that the hon Members raised, I have not the slightest hesitation in repeating my commendation to this House of this Bill.

MR SPEAKER:

Does the Financial and Development Secretary wish to reply?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

No.

Question put. Agreed to.

The Bill was read a second time.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I beg to give notice that the Committee Stage and Third Reading of the Bill be taken today.

Question put. Agreed to.

The House recessed at 9.20 pm

The House resumed at 9.30 pm.

## COMMITTEE STAGE

HON CHIEF MINISTER:

I have the honour to move that the House should resolve itself into Committee to consider the Appropriation (2001-2002) Bill 2001, clause by clause.

### THE APPROPRIATION (2001-2002) BILL 2001

Clause 1 was agreed to and stood part of the Bill.

Clause 2 - Consolidated Fund Expenditure

#### HEAD 1 - EDUCATION, TRAINING, CULTURE AND HEALTH

##### HEAD 1 - A EDUCATION AND CULTURE

###### Subhead 1 - Personal Emoluments

HON J L BALDACHINO:

Mr Chairman, on Personal Emoluments 1(e), there is a provision for £40,000 that did not exist last year. Can I have an explanation for that one?

HON DR B A LINARES:

This is a provision for adult education courses in the College of Further Education, which in my presentation earlier today, I explained covers a number of leisure courses as well as other adult courses or evening lessons and evening classes.

HON J J BOSSANO:

I remember that last year we raised on the question of the revenue side for adult education, the fact that there was £100,000 and we were told that that was a reflection of the increase in the number of courses. Now we see that the outturn is £35,000. Is there a correlation between the fact that Government are charging £35,000 and the £40,000 that is being provided here because I think the Minister said last year that the thing was self financing, but he was not able to identify where the expenditure was in the Estimates.

HON DR B A LINARES:

Correlation is between the £50,000 that we expect in terms of refunding and the £40,000 that we are budgeting in the Estimates. I also mentioned last year that we had a new post of responsibility encouraging and organising and planning these adult courses and that we thought being the first year that this was being done, that it could be over optimistic. I think this year it is a more realistic figure.

HON J J BOSSANO:

Is it then that last year where there was no subhead (e), that the actual cost of the adult education was included in the previous subhead?

HON DR B A LINARES:

Last year it was all included in the one subhead 1(d). Subhead 1 – Personal Emoluments was agreed to and stood part of the Bill.

## Subhead 2 - Industrial Wages

HON S E LINARES:

Mr Chairman, can the Minister explain why they have estimated less under this subhead by £24,000 when the Actual of 1999/2000 and the Forecast Outturn for 2000/2001, was underestimated by nearly £100,000 last year? Can the Minister state whether the supervisors to be employed for the change of school hours will be reflected under this Head?

HON DR B A LINARES:

The first question was why it was lower in the estimate of the actual Forecast Outturn. That is a reflection simply of the situation of vacancies not being filled, it is the churn and turnover. The second question, which is whether the provision for dinner ladies or supervisors is included in this vote. That is not the case. There is a reason why we have not, as the hon Member suggested in his presentation, we have not made an explicit provision in the budget for the provision of dinner ladies simply because when all this was being prepared in January and February, we were in the throes of a consultation process and we thought precisely we should not include an explicit provision precisely to avoid that accusation of bias and loading the whole thing while the whole thing was in consultation. We feel that in terms of supplementary funding, the sum required, if and when we go for this arrangement with regards to school hours will not be difficult to obtain through supplementary funding.

HON J C PEREZ:

Mr Chairman, I think the Minister is wrong when he says that the lower sum of money being provided this year has to do with vacancies, given that the number of industrial staff is 157 and was 157 last year. Unless the Minister is saying that they are going to do away with some jobs and it is not reflected in the figure here.

HON DR B A LINARES:

If the hon Member looks at the complement he will find that it is 157, which is exactly what we have. It is partly vacancies, but it is also a question of the pay award involved.

HON J C PEREZ:

What my hon Colleague was saying is that at the end of last year with vacancies Government finished with a Forecast Outturn of £1,115,000, with pay awards and everything, how is it that the Minister is making provision for less? £1,080,000.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

If I might explain. We adjust the expenditure forecast to take account of vacancies of when they will be filled and then the point at which these estimates were prepared and probably the same at this point now, there were seven vacancies and at the same point in time last year there were only two vacancies. Therefore adjustments were made for that.

HON J C PEREZ:

There are less employees now than there were last year, which accounted for the increase?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

It is the people in post. There is always continuous churn so at this point in time when the Estimates were prepared, there were seven vacancies in the process of being filled and we took a projection of when they would be filled because they were not going to all be filled on the 1<sup>st</sup> April, some will be filled in April, some may be in May.

HON J C PEREZ:

Mr Chairman, that does not explain why they made provision of £1,030,000 and they finished up with a forecast outturn of £1,115,000. If there were vacancies, the forecast would have been lower not higher and now they are forecasting again for a lower sum.

HON CHIEF MINISTER:

Mr Chairman, that is accounted for by the pay award which passes from the supplementary head once it is paid, to the forecast outturn. The point that the Financial and Development Secretary was trying to explain, I am not sure if the hon Members understood, because it is just as well to clarify it now because there are other instances of it, is that although there are 157 people in the Establishment, there is not provision for 157 salaries over 12 months because the figure is arrived at in the knowledge that there are not going to be 157 people for the whole of the 12 month period because the recruitment will take place at a point after which some of the financial year will have already passed, other people will churn out at the other end of the year, which means that there will be savings on salaries at the other end of the year as well. There is a judgement made on the basis of past years experience on how much demand there will actually be.

HON J J BOSSANO:

Mr Chairman, I wanted to ask a general question about industrial wages because it was the point that I raised in the opening statement when the Chief Minister refused to give way to me on the basis that it was not an established practice. I mentioned subsequently in my contribution that what I had intended to ask but was not permitted was for an explanation or rather confirmation of what I had made a note of, which was the total cost of industrial wages where the figure that was given was said to be up by 5.2 per cent on the outturn and 5.5 per cent on the

estimate. I made a note of that but I was not very sure if I had got it right and I asked for that information and it has not been provided, so I am taking this opportunity to get the figures correctly.

HON CHIEF MINISTER:

Mr Chairman, what I said was that the cost of industrial staff is to increase by £414,000 overall or 5.5 per cent of 2000/2001 forecast outturn and by £392,000 or 5.2 per cent when compared to 2000/2001 Estimate.

HON J J BOSSANO:

That is what I could not understand. Given that the estimate must be less presumably than the forecast outturn, how could the increase for this year be higher in relation to the outturn than to the estimate?

HON CHIEF MINISTER:

This is a question over all the Government service not just one department. The estimate for the year 2000/2001 had a figure in it, the total. If one adds up all the estimate industrial emoluments and that has a figure, whatever it is. The estimate for the year 2000/2001 was a total, including bonuses, allowances and overtime, not just basic wages, of £7,462,000. That was the estimate. The total forecast outturn for the same period is £7,440,000. That is a reduction over the estimate.

HON J J BOSSANO:

That is precisely what I could not understand.

HON CHIEF MINISTER:

Then the estimate for the current year is £7,854,000. Therefore, if one compares this year's figure to the estimate, it is £392,000 and that is 5.2 per cent increase of this year's estimate over last year's

estimate. If one compares this year's estimate with last year's forecast outturn, the difference is £414,000 greater because it is a lower figure and that represents 5.5 per cent increase.

HON J J BOSSANO:

Mr Chairman, I accept that that is the percentage. It is just that given that if we look at the subhead we are looking at, the forecast outturn is higher than the estimate, I took it for granted that the total for the whole book was that the forecast outturn would be higher than the original amount provided since we are being told that it includes pay awards.

HON CHIEF MINISTER:

Mr Chairman, I cannot give the hon Member an explanation. The point that I understand him to be making is, given that I am told that the forecast outturn here is higher than the estimate, because it now includes the pay award, why is that not also true of the total for industrial wages. The answer that I am being prompted to give to the hon Member is that it is because the staggering of filling of vacancies and things from department to department that there are right across the Government, dozens of vacancies and that it depends at what time of the year people fill them and at what time of the year pay awards are made. I am told it is due to the churn in vacancies.

HON J J BOSSANO:

Does the churn in vacancies effectively means that the amount provided in the supplementary head for pay awards, the pay settlement vote last year, which was £2,500,000, none of it was required for industrials, because Government actually underspent what was originally voted in the House. If the House last year approved expenditure of £7.462 million for industrials including overtime and bonuses, and finished up paying £7.44 million, none

of the money in the £2,500,000 pay settlement was needed for industrial wages. It was all needed for white collar workers, is that correct? It must be.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

It sounds logical if we could transfer money between Heads, but we cannot, and therefore it is a particular overspend as in the case in Education, it may have required supplementary funding.

HON J J BOSSANO:

I understand that it might well mean that in some Heads one may use savings within the Head, but in practical terms, it means that when we take the Estimates of Expenditure as a whole and the forecast outturn as a whole, the amount budgeted a year ago for industrial employment was not exceeded. That is the figure we have been given. The forecast outturn globally was not exceeded, so in terms of the amount of money coming out of the Consolidated Fund, the pay award was covered by what was already provided in global terms. That is correct? That is what it implies.

Subhead 2 – Industrial Wages, was agreed to and stood part of the Bill.

Subhead 3 - Office Expenses

HON J J BOSSANO:

I asked in the general principles of the Bill for an explanation in the expectation that it would be forthcoming at the Committee Stage, which was that if we turn the page, over in Head 1A, we see subhead 11 John Mackintosh Hall – (b) Cleaning Services – ABC Services Limited. In last year's Estimate Book, the contractor was given in each subhead except one and the explanation we were given last time was that the contractor had

not been shown because it was in the process of being awarded. Given that on this occasion the only one that seems to have been shown is the one that I have just mentioned 11(b) and there are a total of another £290,000 worth of cleaning contracts over a total of all 14 Heads, all of which last year had a contractor next to them, but not the same one. We had about six or seven different contractors.

HON CHIEF MINISTER:

Mr Chairman, the decision not to name the contractor has been taken at an administrative level. I am quite happy to have it restored. I am told that the justification that has been offered to me for not including the information this year is that there is now a process of tendering. When the existing contracts expire there is now a process of tendering and a lot of these things are coming up for re-tender. Just to give the hon Members an indication, 10 departments have tendered various cleaning contracts and there are five contractors who between them have 10 contracts. Eleven departments use ABC Services, which were awarded by the hon Members in their time of Office without tender with an estimated current value of £131,000. I can give the hon Member this piece of paper rather than reading out all those 10 departments if he is interested in the information.

HON J J BOSSANO:

I am interested, otherwise I would not be asking.

HON CHIEF MINISTER:

Alternatively, when we print the booklet, if the hon Members will agree, when we print the Approved Estimates, we will insert that information again as in previous years.

Subhead 3 – Office Expenses, was agreed to and stood part of the Bill.

Subhead 4 - School Expenses, was agreed to and stood part of the Bill.

Subhead 5 - Special Education Abroad

HON S E LINARES:

Mr Chairman, can the Minister explain why this year they have estimated less money in the region of £50,000 from the forecast outturn and £29,000 from their previous estimate 2000/2001?

HON DR B A LINARES:

We have five students with special education in UK and we have one less this year. One of the students has returned home. The cost of his fees were £108,000. If one deducts from the approved estimate £412,000 the £108,800 one will find a figure of £304,000, we have actually budgeted somewhat more than that precisely because of the inflation considerations for the other four students who remain in special education in UK.

Subhead 5 – Special Education Abroad was agreed to and stood part of the Bill.

Subhead 6 - College of Further Education, was agreed to and stood part of the Bill.

Subhead 7 - Scholarships

HON J J BOSSANO:

Mr Chairman, new scholarships in Appendix K, is £615,000. Last year there was £600,000. We have raised this kind of question before on the basis of asking how the figures are arrived at and therefore although we know that if more people are successful they do not get turned away because the figure is there, nevertheless, given the announcements that have been made

today and the figures that have been given by the Minister of additional costs, are we talking about the £615,000 being for the same number of people as the £600,000?

HON DR B A LINARES:

The calculation the department makes is on the basis of that explained before about 190 new students to higher education at a per capita grant of £3,401 which is actually a maximum grant outside London and it is on that basis, together with adding the tuition fees, then some provision for extra weeks, that sometimes have to be paid when required by the College or University for the student to stay longer than just one normal term. There is also provision for hardship allowances, special equipment, some field trips and air fares, which is a hefty sum and it is on the basis of that that we produce the estimate on the basis of the notion of 190 students.

HON J J BOSSANO:

The position is then what, that the 190 students last year at £3,401 produces £600,000, what is the figure for the £615,000, is it still £3,401?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Perhaps I might help to clarify this. What the Minister was explaining was what the departmental bid was for. In fact, in actually putting together the estimates we do make a slight adjustment on the assumption that not everyone will get a maximum grant and so that figure of £615,000, it may well represent 190 students, but they will not all be getting a maximum grant and therefore we make some small sort of adjustment.

HON DR B A LINARES:

In layman's language if I may, we are over optimistic in actually calculating on the basis of the maximum grant for the 190

students. As the House knows, and I have explained in my presentation, not all of them qualify or are eligible for the maximum grant that there is a certain degree of flexibility, which is what the Financial and Development Secretary has just explained.

HON J J BOSSANO:

I understand the explanation that has been given but presumably what the Financial and Development Secretary has said applied last year as well and applies every year. Given the fact that if we look at the amount for mandatory scholarships which is £2.7 million and the forecast outturn is £2,500,000 and the original estimate last year was £2.1 million, [interruption], we are talking about mandatory scholarships. The £2.1 million was the estimate last year, it is in Appendix K. The money is being voted in the body but the distribution of it [interruption], I suppose it could be that the estimates page probably has been corrected by supplementary funding and Appendix K has not.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, it is explained at the footnote at the bottom of page 22, where it says that it includes £300,000 Supplementary Appropriation Bill.

HON J J BOSSANO:

I am aware of that. I was not questioning it. It was the Government that were questioning it and I gave the explanation. What I was asking was, given that the amount that is provided this year is £2.7 million, which shows £200,000 more than the outturn, therefore it seems to reflect the level of expenditure that was actually achieved during the year and not the level of expenditure that was estimated at the beginning of the year. That is to say it seems to be following the £2.5 million rather than the £2.1 million. In that context it does not seem to be consistent that £615,000 for new scholarships this year is the comparable figure to £600,000 last year, because the £600,000 has now disappeared into the

other elements and been distributed. Obviously £600,000 was not enough last year because an additional £300,000 was added in the course of the year.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Looking at the picture overall, I think that the decision was taken that an increase estimate on estimate of 12.5 per cent was sufficient to reflect the rising cost of recurring scholarships. If it was £2.4 million with the Supplementary Appropriation Bill and we are voting £2.7 million, then that is a 12.5 per cent increase and across the board, we felt that that would be sufficient.

Subhead 7 – Scholarships, was agreed to and stood part of the Bill.

Subheads 8 and 9 were agreed to and stood part of the Bill.

Subhead 10 - Culture

HON J L BALDACHINO:

Under 10(b) the estimate was £32,000, the forecast outturn is £93,000 and now we are estimating again £35,000, can we have an explanation of that?

HON DR B A LINARES:

We included and decided to draw from this subhead, a number of events which I also described in my presentation, the six Jornadas de Estudio or Historia Del Campo de Gibraltareños and the symposium that was the result of the agreement with the Diputacion de Cadiz, these were major events which involved quite considerable expenditure and we had to draw on supplementary funding but actually processed the outturn from these votes.

HON CHIEF MINISTER:

In addition to that event, there is a £15,000 donation grant to the Gibraltar Philharmonic Society and a £9,900 cost of events organised through the Instituto Transfronterizo.

Subhead 10 - Culture, was agreed to and stood part of the Bill.

Subhead 11 - John Mackintosh Hall was agreed to and stood part of the Bill.

### HEAD 1-B - TRAINING

Subheads 1 and 2 were agreed to and stood part of the Bill.

#### Subhead 3 - Bleak House Expenses

HON J J BOSSANO:

In the total of training there is a figure of £344,000 and the actual Gibraltar Development Corporation is being charged by the Government the cost as £440,000 on the basis that it includes social insurance and pensions. What exactly is being charged for the pensions of the people who are involved and being paid out of this particular subhead?

HON DR B A LINARES:

I think the answer is social insurance and pensions.

HON J J BOSSANO:

Presumably a notional amount of money is being added as if they had a contributory pension scheme, which they do not. The Social Insurance is a stamp.

HON CHIEF MINISTER:

Mr Chairman, GDC staff now participate in an occupational pension scheme.

HON J J BOSSANO:

It has nothing to do with GDC staff.

HON CHIEF MINISTER:

Are you referring to the Appendix or to the Head?

HON J J BOSSANO:

What I am saying is that if we look at Head 1B – Training, the total cost of Personal Emoluments and Other Charges, is £344,000 and that is considered to be an expense that ought to be met by the employment and training part of the GDC. The GDC is being charged £440,000 and the explanation of that is that the people who are civil servants get pensions. Therefore, the GDC is being charged for the pension they will eventually get as if they were paying every year for it, given all the information that the Government have volunteered about the explosive growth in funding of training, I have taken a closer look at what is being paid and what is being recouped.

HON DR B A LINARES:

This contribution goes to pay the salaries of civil servants in 1B Subhead 1. These are the salaries of civil servants, which are paid from this re-investment from the Consolidated Fund. That includes pensions and social insurance.



MR CHAIRMAN:

I am getting lost. So far subheads (1) and (2) of 1B forms part of the Bill. We are now on 1B(3).

HON J J BOSSANO:

What I am saying, Mr Chairman, is that if we look at 1B(3), the total or if we look at 1B(1) for that matter, the total and we then look at Appendix B on page 112 – Reimbursement of Consolidated Fund Expenditure, subhead (3), it shows that the Gibraltar Development Corporation is reimbursing the Education Department with £440,000. Given the explosive growth that there is in the Government funding of training, I am questioning the calculation under which the cost of training is charged £440,000 for the payment of civil servants who get paid £322,000 since they are also being charged £22,000 Other Charges presumably, what exactly is the element of the £440,000 that the training expenses are meeting for the eventual notional pensions of those civil servants when they eventually retire in the year dot?

HON CHIEF MINISTER:

Yes, it is true that a greater sum is being reimbursed than is being incurred in that year. The hon Member will remember in 1997 we voted £3 million or something like that under this item to pay for historical subsidies. This figure is not designed to match the exact expenditure that is being reimbursed. In other words, more is being reimbursed than is being expended this year from the Consolidated Fund.

HON J J BOSSANO:

I am afraid I do not think the Chief Minister knows what he is talking about in this particular aspect. The amount that went before in 1997/1998 was not from this subhead at all. It is from the subhead that is providing this year £700,000 and last year

provided £1.5 million and that is shown in the top part of page 112 Appendix B. The reimbursement that is taking place at the bottom, which is £440,000 this year and £428,000 forecast outturn, according to the footnote, is exclusively related to the employers social insurance and pension contributions. That is what the note says and I am following what the note says. My question is, given that there is a discrepancy between the amount that the civil servants providing training are going to be getting into their pocket, which is £322,000 and the amount, the budget of the Employment and Training Board body is going to be meeting, what is the notional pension contribution that is being charged to the training budget, because there is no real pension contribution.

HON CHIEF MINISTER:

No, there is not. The difference is not explained by reference to a notional contribution pension cost.

HON J J BOSSANO:

That is what it says in the footnote.

HON CHIEF MINISTER:

No because a provision is being made for pensions. It is part of the assessment of the cost to Government, in other words more is being drawn back into Government from the Gibraltar Development Corporation than the Government are putting into civil servants pockets as a provision, it is just like working out the real cost of things. It is just a figure arrived at.

HON J J BOSSANO:

Mr Chairman, somebody must have done some mathematical calculation to arrive at £440,000 as opposed to £413,000 or £415,000. From our point of view given that we have been told so much about how the money is being spent on training, well obviously if one pays somebody £320,000 and then one shows

that as £440,000 worth of training, it makes the training budget look bigger. Given those considerations which were raised in the general principles of the Bill, we would like to know what is the correlation between one and the other. There must be a calculation that says £320,000 worth of wages, so much worth of social insurance and so much worth of pension contributions. That is what that little note says.

HON CHIEF MINISTER:

Mr Chairman, this is run by the Treasury, by the Accountant General. There is a formula. I could not inform him of what the formula actually is, but there is a formula applied by the Accountant General, which is obviously subject to audit since the Gibraltar Development Corporation's accounts are audited, it is subject to audit by the Principal Auditor. I cannot tell the hon Member what it is, but if it is connected to what is said to be the usual cost of civil service pensions, then I know that the figure is 20 per cent. I do not know whether it is 24 per cent or 27 per cent of the real net present value of the current cost of providing a future pension to civil servants which is thought to be in the middle 20 per cent of basic salary. If the hon Member is interested in having that formula, I shall instruct the Accountant General to present it to him. It is a mathematical formula, I do not know what it is.

Subhead 3 – Bleak House Expenses, was agreed to and stood part of the Bill.

## **HEAD 1C - HEALTH**

Subheads 1 and 2 were agreed to and stood part of the Bill.

### **Subhead 3 - Contribution to Gibraltar Health Authority**

HON J J BOSSANO:

Mr Chairman, the contribution to the Gibraltar Health Authority is £7.7 million. I note that if we look at Appendix C, which shows the

estimated expenditure for the current financial year of the Health Authority, it shows that expenditure to be recurrent, £29.8 million. If we look at the figure for Personal Emoluments, it is £14.350 million and if we look at the outturn it is £13.385million, so basically the difference between the Personal Emoluments of the financial year just ended and the one that has just commenced, seems to be of the order of £1 million and the requirement of the Health Authority of £7.7 million seems to be based on that £1 million because the totals for the forecast outturn and the estimate is also of the order of £1 million, £28.7million to £29.8million. Is it then that the Government think that other than providing £1 million for meeting higher wages and salaries, the rest of the Health Service is not going to require more funding this year?

HON CHIEF MINISTER:

Mr Chairman, if the hon Member looks through the items of expenditure, some of them are higher, but there is an element of netting, some higher, some lower. For example, if he looks at the provision for recurrent expenditure on drugs, there is a small increase, provision equipment and related expenses, there is a small increase from £915,000 to £960,000. One would have to go item by item. Some recruitment contractual expenses and accommodation. If he looks at all those figures or just even at the sub totals, some of the figures are higher. The net effect is that the total recurrent is £28.67million forecast outturn and £29.8million, which is, as he says, just over £1 million. The expenses on Personal Emoluments is just under £1 million and then there is the industrial wages. There is a containment of overall expenditure and a redistribution of where it falls. Some items are increased. For example, there are some items where for a number of years there is high expenditure, which can then be brought down in future years because it is not necessary to carry on with the same level of expenditure. Certainly the increase in the other expenses is not of the same order as the increase in emoluments. It is a small percentage increase under Other Charges.

HON J J BOSSANO:

The percentage increase on Other Charges would be difficult to calculate.

HON CHIEF MINISTER:

No, the hon Member could do it.

HON J J BOSSANO:

No. We are talking about what a few thousand pounds in the context of over £10 million. If we look that Personal Emoluments goes from £13.85 million to £14.350 million, then one has nearly £1 million and there is another £50,000 on industrial wages, which takes it just over £1 million. Since the total is just over £1 million, if one deducts one from the other it means that on the balance of something like £12 million, there is a few thousand pounds extra on the total. That does not seem to be consistent with the kind of annual increases the Health Service has required in terms of Other Charges, independent of Personal Emoluments and Wages where of course there is no way of that being controlled unless there are unfilled vacancies.

HON CHIEF MINISTER:

Mr Chairman, it is an attempt to instil in the Health Authority expenditure discipline. If in the last 12 months they were able to run the Health Authority with £28.6 million minus the wages element which is £14.7 million or something like that, that they are being asked to carry on running it for that sum with minor amendments. That is what they are being asked to do. Expenditure increases have got to be shown to be necessary for delivering clinical services and not just spent because they are provided for.

HON J J BOSSANO:

I think we were told in the general principles of the Bill that the numbers in employment given in the footnote might not be accurate and that that would be corrected.

HON CHIEF MINISTER:

They have been corrected.

HON DR B A LINARES:

The correct figures should be 540 non industrials and 110 industrials.

HON J J BOSSANO:

So we are talking in fact about eight more industrials and seven less non industrials. It seems odd that the industrial wage only goes up by £50,000 and the non industrial wage, which is the one that is down actually goes up by nearly £1 million.

HON DR B A LINARES:

We have to remember that this is a snapshot of the figure on one particular day and when one talks of the estimates one is talking much more globally than just one particular number of people in post on that particular day.

HON J J BOSSANO:

I know that, but what I am saying Mr Chairman is that if the Health Authority employed 102 industrials a year ago and in the course of the year, it employed more people and they started going up and they finished up on the 1<sup>st</sup> April this year with 110 instead of 102, which is eight more than a year ago, I would have expected that the provision on wages would be higher than £50,000

difference between the two years, given that one has got eight more people. It is odd that on the Personal Emoluments where we are told that they started with 547 and they finished with 540, which is going in the opposite direction, they are providing £1 million more. The logic of the Minister's explanation is that either it is not being logically applied to one or it is not being logically applied to the other because one conflicts with the other in terms of that analysis.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, conflicts can sometimes be logical. The situation is because we corrected the figure this year. It is because we discovered that the Health Authority when they submitted these figures, it was what they were projecting to be the case as at 1<sup>st</sup> April. In actual fact as on the 1<sup>st</sup> April it turned out to be slightly different to what they were projecting simply because of churn and timing being imposed to people coming back from maternity leave et cetera. So I wonder, and I only ask the question really myself, is whether the figures that apply here are exactly the same as the provision made in March sometime for the 1<sup>st</sup> April and in fact could be slightly different. So that may to some extent explain. I suspect that there were more than 102 industrials in post actually on the 1<sup>st</sup> April in the previous year.

HON J J BOSSANO:

More than 102?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Yes. I suspect that the 102 is lower and that would explain. With regard to the Personal Emoluments point, I think there has been quite a lot of churn in the Health Authority this year in terms of new appointments, people coming and going and I think the fact is that the £9.6 million that we projected was going to be spent

this year, I think that contained a lot of people being recruited quite late in the financial year, so in fact we were only paying part of their salaries and in particular in relation to medical consultants, whose salaries are at the higher end of the scale. Therefore I think in the £10.7million I think it reflects a full year's salary in those people's cases. Plus I think there is an expectation that a lot of the churn and vacancies will be taken up through most of year and that explains why this is £1 million increase.

HON J J BOSSANO:

Is not the industrial wages indicative in the case of industrial workers the function having to be covered by overtime when there are less bodies, because if we look at the original estimate one has £990,325 and if we look at the outturn it is £906,434, so is that not an indication that even if one puts the money in as wages, if there are vacancies the work still needs to be done and one needs to pay somebody else to do it.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

That could well be true but the better comparison is to the outturn 1999/2000, when the spend was nearly £400,000 and I think what we did was the drive to contain overtime was unsuccessful, I think this is probably a better read out of the picture.

HON J J BOSSANO:

On the Personal Emoluments I think last year there was a provision of £180,000 for students and then we were told at some stage that it had been removed from being shown as a separate item to being included in the global total for Personal Emoluments. Does the Minister recall that?

HON DR B A LINARES:

Indeed that is correct.

HON J J BOSSANO:

Is it possible to know what is the provision for students this year so that we can compare with what was there before?

MR CHAIRMAN:

The only thing is that we are going to the Appendix, the Appendix comes after. At the moment we are only voting for the £7,700,000.

HON CHIEF MINISTER:

Mr Chairman, the reality of it is that the Appendix is not part of the Appropriation Bill at all, which is what we are discussing. What we are debating, what we are on Committee Stage is on Head 1C, which is a £7.7 million contribution to the Gibraltar Health Authority this is not an item by item Committee Stage consideration of the expenditure of the Gibraltar Health Authority. That information is there given for indicative purposes.

HON J J BOSSANO:

I accept that, but given that the indicative purpose is what is used to arrive at the £7.7 million and we are voting the £7.7 million, I know we are not voting the Personal Emoluments, but it seems to me that the purpose of the exercise in providing the information is to give us the opportunity to raise it in the context of the money we are voting. Otherwise why have it there.

HON DR B A LINARES:

In relation to nine student nurses.

Subhead 3 – Contribution to Gibraltar Health Authority, was agreed to and stood part of the Bill.

#### Subhead 4 - New Hospital Building Running Expenses

HON J J BOSSANO:

Last year on the £200,000, we were told it was namely security for the building. The outturn has been £50,000 and we are being asked to vote £150,000, can we have an explanation?

HON CHIEF MINISTER:

It is a provision. The building works are going to start in September or October. I think it is a provision that is not going to be needed this year either, it is much more in excess of the £50,000, some of it might be used but I do not think there is any specific expenditure provided for, it is a provision, given that the works are closer and that there will be more running expenses in terms of more security, electricity consumption, water consumption, but I do not think it is going to reach £150,000.

HON J J BOSSANO:

Is there a contract for the security of the building of a specific amount which is included in that?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, I think that £50,000 is primarily the security of the building and other costs to do with the development of the new hospital are pushed through the Improvement and Development Fund. There is no separate contract, it is a contribution to Europort security.

HON J J BOSSANO:

Apart from security what else is included in the £150,000?

HON CHIEF MINISTER:

In anticipation of the occupation of the building albeit for works purposes.

Subhead 4 – New Hospital Building Running Expenses was agreed to and stood part of the Bill.

## **HEAD 2 - EMPLOYMENT AND CONSUMER AFFAIRS**

### **Subhead 1 - Personal Emoluments**

HON J L BALDACHINO:

Mr Chairman, on Salaries we estimated £236,000 and we are paying out £273,000, is it that the two persons now with different titles, is their pay structure higher?

HON J J NETTO:

Mr Chairman, from all the information available to me from the Minister for Employment, it is the increases in this Item due to pay awards and the expected over expenditure is due to the increase in the salaries of the new Health and Safety Inspectorate new pay scales.

HON J L BALDACHINO:

What I am asking is, the Higher Professional Technical Officer and the PTO are now Health and Safety Officer 3 and Health and Safety Officer 4, is it that they are in the same pay structure or is it that they are now in a higher pay structure?

HON J J NETTO:

That is right. We do have a situation now where there is a two tier level one is the Health and Safety Officer 3 and one is the Health

and Safety Officer 4. So there are two at level 4 and one at level 3, who is the senior.

HON J L BALDACHINO:

Yes, I understand that but that is not what I am asking. What I am asking is, seeing that we had a Higher Professional Technical Officer and a PTO and they are now classified – I do not know if they are the same persons – and they are now classified as Health and Safety Officer 3 and Health and Safety Officer 4, are they in the same pay structure as the Higher Professional Technical Officer and the PTO or is it that they are in a higher pay structure?

HON J J NETTO:

It is a higher one.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, the answer is at Appendix L where we list all the grades and the pay scales.

Subhead 1 – Personal Emoluments, was agreed to and stood part of the Bill.

Subheads 2 to 5 were agreed to and stood part of the Bill.

### **Subhead 6 - Industrial Tribunal Expenses**

HON J J BOSSANO:

I take it this is not the civil servants who service the tribunal because they would come under Personal Emoluments and they do other things other than service the tribunal. In terms of the problem that there is about the workload of the tribunal, which is sometimes leading to people having to wait a year before a case

is heard. Is it something that could be cured by providing more resources in these areas so that they could handle more cases?

HON CHIEF MINISTER:

I do not think so, Mr Chairman. This figure is demand led. In other words, they are not told "you can only hear as many cases as you can do for £5,000" and then they stop hearing cases until the next financial year. The only way one could accelerate the hearings is to dedicate more people, to take more people and dedicate them to the secretariat part of it. I was not aware until the hon Member said so that there was this problem, but certainly there is a grave problem and it is a delay causing undue delay and if it is something that can be rectified by the Government just deploying more human resources at the secretarial civil service level, then I think it should be done and I will certainly look into the hon Member's assertion that there is an increase in the waiting time so to speak and if it is the case certainly the Government would act on it.

Subhead 6 – Industrial Tribunal Expenses, was agreed to and stood part of the Bill.

Subhead 7 - Consumer Affairs was agreed to and stood part of the Bill.

Subhead 8 - Contribution to Gibraltar Development Corporation – Employment and Training

HON J J BOSSANO:

Mr Chairman, I think this is the point at which to raise the query I raised in relation to the explosive growth in training and the figures that were given, which I asked the Minister whether he would be clarifying at Committee Stage. Let me just say that the explanation that was given by the Chief Minister in relation to Appendix B on page 12, as I understood it, the £759,433 that he quoted is the wages for vocational cadets and the wages of adults on wage subsidies in 1999/2000.

HON CHIEF MINISTER:

I quoted two sets of figures in my contribution. One was the sub totals under Training and Development courses and then I quoted the bottom line figure, but in each case subtracting from it the reimbursement of Consolidated Fund expenditure. So from the £4 million, I would have deducted £440,000.

HON J J BOSSANO:

The point I am making is that the sub total for Training and Development courses in the year 1999/2000 includes zero in respect of Training and Development courses because that appears for the first time in the column for the year 2001/2002. That sub total is the sub total of vocational cadets and wage subsidies, which is the £224,089 plus the £743,533, if one adds those two, one gets £959,433.

HON CHIEF MINISTER:

That addition is not correct. If you add £743,553 to £224,089 one does not get £959,433.

HON J J BOSSANO:

Mr Chairman, if we look at the column of the year 2001/2002, we have got £1.4 million which is £900,000 and £400,000 and that gives us £1.3 million.

HON CHIEF MINISTER:

I think it is because there was no breakdown at that stage. The whole amount related to EU projects, to other projects or both. It was a total figure. What has happened for the first time this year is that the total has been subdivided into two component parts and the reason why it is blank in the previous column is because there was no subdivision of the figure last year.

HON J J BOSSANO:

Mr Chairman, it is not the subdivision between EU projects and other, which is there for the first time this year. What I am saying is if we look at the Estimates last year, it has got vocational cadets £560,000. That figure may not be broken down into EU projects and other, but as I recall the explanation last year and the outturn has been £900,000, this is the money paid to the vocational cadets. If we look at the next subhead, it was £235,000 for wage subsidies, that is for people who are over 25 and in the outturn it was £166,000. The Training and Development courses was shown last year as £900,000, which is shown here but it is the relationship between that and the other two. Is the £959,000 inclusive of the vocational cadets or is it as a separate item?

HON DR B A LINARES:

Mr Chairman, as I have explained in my presentation too when giving details of the training courses, both in the Construction Training Centre and Cammell Laird, there are new intakes coming on line into the apprenticeship scheme there and that of course adds to the additional expenditure. Similarly the breakdown of all the other training programmes have now been costed and there is a breakdown which the hon Member asked for and it does amount to £1.2 million, which is covered by the Training and Development courses £1.3 million.

HON J J BOSSANO:

I think it was the Minister for Trade and Industry that talked about the Objective 3 funding. Are these EU projects funded from the Objective 3? Is that what the £1 million at the top which says contribution by the ESF is?

HON DR B A LINARES:

That is correct.

HON J J BOSSANO:

Is the Objective 3 also being used to pay vocational cadets salaries as it were?

HON CHIEF MINISTER:

Yes because it is linked to training. The main reason for the very significant rise from £560,000 to £910,000 relates to the Cammell Laird apprenticeship scheme.

HON J J BOSSANO:

In the contribution by the European Social Fund where there was an original estimate of £850,000 the contribution which was increased from the Consolidated Fund Head 2(1), from £1,000 to £1.05 million, I think we were told at the time in a Supplementary by the Financial and Development Secretary or perhaps in the note next to it, that this was because the money was not being received from the ESF within the financial year ending in March. I may be wrong, but I seem to recall having either heard or seen an explanation of that nature in terms of the requirement for additional funds.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, that is correct, except that the primary reason was that there was an administrative delay in the Government claiming them as opposed to ESF not paying them over.

HON J J BOSSANO:

In arriving at the requirement this year from the Consolidated Fund of £700,000, obviously the £1 million assumes the arrival of the money after the 1<sup>st</sup> April, I take it.

HON CHIEF MINISTER:

It has not arrived yet.



HON J J BOSSANO:

Part of the £1 million will be funding expenditure that had already taken place before and was previously funded by the Government.

HON CHIEF MINISTER:

Absolutely.

HON J J BOSSANO:

Is there an estimate of how much is for this year and how much was for previous years?

HON CHIEF MINISTER:

Mr Chairman, I believe that the figure attributable to previous years expenditure, is in the order of £800,000 and £200,000 for this year. Could I just correct something that I told the hon Member earlier? The vocational cadet increase does not relate to the Cammell Laird apprenticeship scheme but to the JBS apprenticeship scheme, and also to the fact that no provision had been made for social insurance contributions by trainees, which is now being made out of the vocational training subhead as well.

Subhead 8, Contribution to Gibraltar Development Corporation – Employment and Training was agreed to and stood part of the Bill.

### HEAD 3 - HOUSING

#### HEAD 3 - A - HOUSING ADMINISTRATION

Subheads 1 to 4 were agreed to and stood part of the Bill

#### Subhead 5 - Edinburgh House and Bishop Canilla House

HON DR R G VALARINO:

Mr Chairman, could the Minister explain what 5(b) and 5(c) are. Is 5(b) the management fee for Fitzpatrick Contractors Ltd and 5(c) is the works and maintenance for Fitzpatrick Contractors Ltd?

HON J J NETTO:

In relation to 5(b), it shows the increase estimate due to demobilisation cost of the company plus the inclusion of cost to Bishop Canilla House. In relation to 5(c), the decrease refers to the allocation by the Financial and Development Secretary of the remaining balance into some of the projects in the Improvement and Development Fund.

HON DR R G VALARINO:

I gather that 5(c) next year may be zero.

HON J J NETTO:

Certainly not.

HON CHIEF MINISTER:

Part of the expenditure that last year was booked into the Consolidated Fund to produce a figure of £63,000, is this year being booked in the Improvement and Development Fund because it constitutes the legitimate capital investment. The expenditure is going to be more than £45,000, but only £45,000 is going through this account, the balance will go through the Improvement and Development Fund.

Subhead 5, Edinburgh House and Bishop Canilla House, was agreed to and stood part of the Bill.

Subhead 6 - Gibraltar Development Corporation – Staff Services

HON DR R G VALARINO:

An explanation is given in Appendix B page 113, but could the Minister give me a bit more of information on this one?

HON J J NETTO:

Mr Chairman, if the hon Member had looked at this more closely, he would have observed that increases refers to (a) Upgrade of one grade 2 clerk to grade 3; (b) Recruitment of 3 new grade 2 clerks and (c) Pay awards and arrears.

HON J L BALDACHINO:

Is the Minister quoting, because the explanation he has just given is not in the page he has just referred to in Appendix B, page 113.

HON CHIEF MINISTER:

Mr Chairman, this, as against the Consolidated Fund, this is a staff services related expenditure, so that is money going from the Consolidated Fund to the Gibraltar Development Corporation to pay the salaries of those members of the Housing Agency that are not civil servants, that are employees of the Gibraltar Development Corporation. That figure has risen from £76,000 to £110,000 and assuming that the hon Members might have deduced for themselves, that we have not increased their salaries by 40 per cent, the difference is accounted for by extra bodies. That is the point that we are trying to make.

HON J L BALDACHINO:

That is not what was said by the Minister.

HON CHIEF MINISTER:

It is exactly what was said. The Hon Dr Valarino, in his contribution to the Second Reading, said that it was terrible under resourcing of Personnel in the Housing Agency, that all that he had done was employ a Personal Secretary. These figures demonstrate that he must have done more than employ just a Personal Secretary because employing a Personal Secretary does not explain the jump from £76,000 to £110,000. He has now just given the details of what those extra bodies are. This is not a civil service establishment point.

HON J J BOSSANO:

The point is that if the vote is up and he does not tell us whether it is for one secretary, for 20 secretaries or for zero secretaries, because it just says Gibraltar Development Corporation staff services, one goes to Appendix B on page 113, and one finds the same figure. It tells the same thing on page 113 as on page 31, exactly the same information.

HON CHIEF MINISTER:

Mr Chairman, I am not going to get into a silly discussion. It is implicit in an increase in Personal Emoluments expenditure by an amount of that size that cannot possibly be explained by some other reason like annual pay reviews, that if there is such a substantial increase in the provision for pay, it must suggest additional bodies. I will put it no more strongly than that.

HON J J BOSSANO:

I accept that that formulation would be logical if indeed it was a Personal Emolument expenditure, but it is not. It is Other Charges expenditure on page 31 and what we are seeing on page 113 are receipts. There is no breakdown on the payment side. On the payment side it says salaries £1.6 million.

HON CHIEF MINISTER:

The way that this whole document is structured is that when the GDC incurs salaries expenditure on behalf of a ministerial function, it appears in the Consolidated Fund vote as a Gibraltar Development Corporation staff services. That is salaries always. It then comes across as revenue in the Gibraltar Development Corporation page and then appears again below as expenditure on salaries. The breakdown is not given twice, the breakdown of expenditure on salaries in the Gibraltar Development Corporation is to be derived from the information here in the Consolidated Fund. Does the hon Member follow me? In other words, the breakdown is in the department. It then comes across, still broken down, on the receipt column, but it is not broken down again on the expenditure side of the GDC. It would have been the same number all over again. The hon Member should rest assured that the figure at the top on receipts which matches an expenditure figure under the heading Staff Services GDC in the Consolidated Fund Head, does not conceal anything other than salaries.

HON DR R G VALARINO:

Mr Chairman, since the figure is exactly the same, I imagine that pensions and social security are included in that payment.

Subhead 6, Gibraltar Development Corporation – Staff Services was agreed to and stood part of the Bill.

Subhead 7 - Miscellaneous Housing Payments was agreed to and stood part of the Bill.

HON CHIEF MINISTER:

If the hon Members want a breakdown by division of the staff of the Gibraltar Development Corporation, we have told them that the number of people employed at the Gibraltar Development Corporation was 157 plus a whole series of lifeguards or things of that sort. But if they want a breakdown of where the permanent

staff of the GDC lie, they need only ask for it. The information exists, they are very welcome to have it, so that they know of the 157 permanent how many are in traffic, how many are at housing administration et cetera.

### HEAD 3-B - HOUSING - BUILDINGS AND WORKS

Subhead 1 was agreed to and stood part of the Bill.

#### Subhead 2 - Industrial Wages

HON R G VALARINO:

Do these industrial wages cover the whole 230 industrials on the previous page or are there any vacancies?

HON J J NETTO:

Yes there must be a few vacancies, but obviously that is a provision that caters for the 230. At the moment there are a few vacancies, I do not know if it is about five.

HON CHIEF MINISTER:

There are five.

Subhead 2, Industrial Wages was agreed to and stood part of the Bill.

Subhead 3 - Office Expenses was agreed to and stood part of the Bill.

#### Subhead 4 - Operational Expenses

HON DR R G VALARINO:

On 4(c) – Security Services, which is a contracted service, has it still got to go out to tender or this a fixed amount given to a particular company?

HON J J NETTO:

The security services at the City Hall has gone out to tender. In relation to the sums of money, the first sums of money which the hon Member saw from the previous financial year, was more of a guesstimate than a real figure.

HON DR R G VALARINO:

Yes, and I also said what company was doing the work.

HON CHIEF MINISTER:

It is either Group 5 or Detective and Security. We will tell him which of the two when we get it.

HON J J BOSSANO:

When the Minister says that the £15,000 originally put there was a guesstimate, is it then that the tender that came in was for much higher?

HON CHIEF MINISTER:

It was the figure he used to persuade me to agree to the provision of the service.

Subhead 4 - Operational Expenses was agreed to and stood part of the Bill.

Subheads 5 to 9 were agreed to and stood part of the Bill.

#### HEAD 4 - PUBLIC SERVICES, ENVIRONMENT, SPORT AND YOUTH

##### HEAD 4-A ENVIRONMENT

Subheads 1 and 2 were agreed to and stood part of the Bill.

#### Subhead 3 - Office Expenses

HON J C PEREZ:

Mr Chairman, I find it strange that we should be making 100 per cent increase in provision for general expenses in 3(a) from £4,000 to £8,000, can we have an explanation on that?

HON LT COL E M BRITTO:

Yes, Mr Chairman. The same explanation applies to the whole of 3(a), (b), (c), and (d) and also to the salaries and wages differences. The answer is very simple. My personal staff in the Ministry used to come under Technical Services Department and are now under Environment. Electricity costs, telephone costs, emoluments, wages and general expenses.....

HON J C PEREZ:

Expenses from the Minister's office is now moving to that department?

HON LT COL E M BRITTO:

That is right, so there is a corresponding decrease on the other side on all those items where the hon Member sees drastic increases.

Subhead 3 – Office Expenses was agreed to and stood part of the Bill.

Subhead 4 – Operational Expenses was agreed to and stood part of the Bill.

## Subhead 5 - Cemeteries Expenses

HON J C PEREZ:

I presume this is not related to the upkeep of the cemetery or anything like that, because it is a mere £12,000. Is it expenses related to another cemetery, which is not the Devil's Tower Road one?

HON CHIEF MINISTER:

It is for weeding and cleaning and tools for weeding and cleaning and that expenditure.

Subhead 5 - Cemeteries Expenses was agreed to and stood part of the Bill.

## Subhead 6 - Environment

HON DR R G VALARINO:

On 6(f), the running of Alameda Gardens - Wildlife Ltd, there seems to be a fairly hefty up from £275,000 to £315,000, could the Minister enlighten us please?

HON LT COL E M BRITTO:

Yes, Mr Chairman, and again the answer applies to most of Subhead 6. There are contractual increases in most of them but in the case that he has particularly highlighted – Alameda Gardens, there are increased responsibilities as well, so there is a higher contractual increase there.

HON DR R G VALARINO:

On 6(g) – Upkeep of Planted Areas – Greenarc Ltd and Gibralflores Ltd, the Minister said that vandalism was being reduced as

far as this was concerned. There is also an increase there of over £50,000.

HON LT COL E M BRITTO:

That has nothing to do with vandalism. This is a clear indication of the Government's great success in beautifying our city and the larger number of planted areas that there are all over the place, therefore there are contractual increases for more upkeep for more planted areas.

HON J C PEREZ:

Is it that the increased green areas have been successfully tendered for by Gibralflores and that Greenarc has everything that it had before or has Greenarc also had a share of the new areas that have come out to tender?

HON LT COL E M BRITTO:

I do not have a breakdown of the awards of the tender process, but in answer to the question any new ones have come out to tender and all the existing ones remain where they were.

HON J C PEREZ:

If there is a breakdown of what sums are for Gibralflores and what sums are for Greenarc?

HON CHIEF MINISTER:

There comes a point to which there is a limit to the extent to which payments to individual companies ought to be highlighted. All of these contracts are gazetted. The winning bidder with the winning amount, if the hon Member wants that information we will give it to him privately, but to ask us now to break down each subhead by amount, by contractor, even if we do not have it now,

one thing is to give it to him privately and another thing is to make a sub divide items in the budget by the number of .....

HON J C PEREZ:

The only thing I was trying to point out, but it is not that important, is whether all the new green areas had been going to one particular contractor.

HON CHIEF MINISTER:

No.

HON J C PEREZ:

So it has been shared between both of them.

HON CHIEF MINISTER:

Absolutely.

Subhead 6 - Environment was agreed to and stood part of the Bill.

Subhead 7 - Street Cleansing and Associated Services

HON J J BOSSANO:

Can I ask about Master Service? Mr Chairman, obviously this is not one of our cronyism.

HON CHIEF MINISTER:

Except that this was one on tender.

HON J J BOSSANO:

Is the increase the result of extra work?

HON LT COL E M BRITTO:

Yes, Mr Chairman, it is both. A contractual increase and also increased areas. For example, they are now responsible for the Coach Park.

Subhead 7 - Street Cleansing and Associated Services was agreed to and stood part of the Bill.

Subhead 8 - Refuse Collection

HON J C PEREZ:

Mr Chairman, I do understand that the £140,000 employers contribution has been deducted from the wages and that is why it is lower. But can we have an explanation of why the overtime projected is lower?

HON CHIEF MINISTER:

Yes, Mr Chairman, because speaking of cronyism, there is an abuse of overtime in that company.

Subhead 8 - Refuse Collection was agreed to and stood part of the Bill.

Subhead 9 was agreed to and stood part of the Bill.

HEAD 4-B TECHNICAL SERVICES

Subhead 1 - Personal Emoluments

HON DR R G VALARINO:

On Personal Emoluments, I notice that salaries have spiralled down to £201,000. Last year it was £254,000. I wonder why the decrease.

HON LT COL E M BRITTO:

Mr Chairman, I have already explained it. My staff used to come under Technical Services and now they come under Environment. The corresponding increase that we saw before in Environment is the corresponding decrease here and it will also apply in Other Charges and everywhere else. It is the movement of people from one Head to another.

HON J C PEREZ:

Mr Chairman, 1(h) Temporary Assistance, it seems to me that from £9,000, we are jumping to £67,000. Is there an explanation for that?

HON CHIEF MINISTER:

There are temporary architects and quantity surveyors employed on contract. For example, I understand that somebody has just been recruited, an architect, or a civil engineer, it is extra professional help at senior level recruited on contract.

HON J C PEREZ:

Have these contracts gone out to tender?

HON CHIEF MINISTER:

These are not contracts. This is temporary recruitment of staff.

HON J C PEREZ:

Temporary recruitment, has that been advertised for other architects to compete for the work?

HON CHIEF MINISTER:

Mr Chairman, temporary assistance is never done on that basis. This is temporary assistance of a dedicated nature. These are

not people working in the private sector and providing services to the Government. These are people who are working permanently for the Government on a temporary basis.

HON J C PEREZ:

That they are Government employees, is that what the Chief Minister is saying?

HON CHIEF MINISTER:

On short term contract.

HON J C PEREZ:

What I am saying is that if they are on short term contracts it is because they have been employed and if they have been employed, has the vacancy even on short term been advertised?

HON CHIEF MINISTER:

No, it is not a vacancy. This is one engineer and one clerk of works, which the Technical Services required on an urgent basis and which was recruited on the basis, rather than engaging the services of an individual through his firm, he discontinued his private practice and came over temporarily.

HON J C PEREZ:

It is just that there are other people there that might be as qualified as this individual or individuals and who might have had a chance to apply.

HON CHIEF MINISTER:

Not the case.

Subhead 1 - Personal Emoluments was agreed to and stood part of the Bill.

Subhead 2 - Industrial Wages

HON J C PEREZ:

The Electrical side, there was an estimate of £300,000 and notwithstanding the increase in wages, the outturn is £260,000 and now the forecast is £380,000. Is that because there is an intention to employ people there?

HON CHIEF MINISTER:

The Government have agreed with the staff to a restructure, to a resources restructure, to filling of vacancies and things of that sort and so more people are going to be recruited into that section, which does very good work and is terribly over stretched to the number of people that they have.

HON J C PEREZ:

How many vacancies are we planning for?

HON CHIEF MINISTER:

Eight.

HON J C PEREZ:

I presume that the figure does not reflect it for the whole year as in the other vote but as and when the recruitment takes place or has the recruitment procedure already commenced?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Yes, Mr Chairman, that analysis is correct.

Subhead 2 - Industrial Wages was agreed to and stood part of the Bill.

Subheads 3 to 8 were agreed to and stood part of the Bill.

Subhead 9 - Salt Water System

HON J J BOSSANO:

Mr Chairman, I was going to ask in linking compensation in new water increases with the £750,000 for incinerator water production, I think we asked at the time about how the money came back to the Government, if the Government were financing the production of water. The £940,000 is the cost increase that Lyonnaise would want to pass on to consumers and does not.

HON CHIEF MINISTER:

At Government request. That is Item 8.

HON J J BOSSANO:

But given the fact that Government are paying for £750,000 worth of water, what happens with that water? Is that given to Lyonnaise for Lyonnaise to sell?

HON CHIEF MINISTER:

It is delivered to Lyonnaise at the contractual rates that In-town had under their contract with Lyonnaise. In other words, the Government took over the incinerator plant and now has to deliver on the contract the plant had with Lyonnaise. I cannot remember the figures or the amount. This is the very high cost to the Government of producing that volume of water by means other than the rubbish, the importation of these boilers and the fuel for these boilers and that sort of thing. There is a corresponding revenue stream which I think is less than this. The operation is running at a loss to the Government, which is the contractual rate



that Lyonnaise has to pay for that water. That revenue I do not know where it is booked. It all goes in and out of the expenditure and the revenue in Europa and this is the loss, the cost to the Consolidated Fund on a net basis.

Subhead 9 - Salt water System was agreed to and stood part of the Bill.

Subheads 10 to 12 were agreed to and stood part of the Bill.

#### HEAD 4 - C ELECTRICITY

Subheads 1 to 9 were agreed to and stood part of the Bill.

Subhead 10 - Contractual Capacity Charge - OESCO Power Station

HON J J BOSSANO:

Mr Chairman, given that this was driven by the cost of fuel and the exchange rate, is it that they are expecting to buy less electricity from OESCO in this current financial year than the last one?

HON CHIEF MINISTER:

No, Mr Chairman. I think there is a reckoning of a slight softening of fuel prices and perhaps a small reduction in the purchase because last year there was a small increase in the purchase. It is a provision. The department bid more than this on the basis of an assumption that the cost of fuel remain the same throughout the year and that we have reduced it on the opposite assumption that the cost of fuel is not going to be sustained throughout the whole year at current levels.

HON J J BOSSANO:

Do Government have some kind of indication as to the ratio of electricity generated by OESCO and by itself?

HON CHIEF MINISTER:

Yes, I have information in my office. I cannot give it to him now but I can send it if he wants it, but we do have millions of units or however it is measured produced by each station. The total number of units purchased from OESCO was 62,559,600 kilowatt hours. That breaks down into guaranteed units that need to be purchased at a fixed cost of £52,133,000 at the rate of 4.95 pence per kilowatt hour, at a cost of £2,580,583. Then 10,426,600 kilowatt hours were purchased at the reduced rate of 3.95 pence at a cost of £411,850.7. Fuel cost adjustment on the whole 62.5 million units at 4.05 pence produces another £2.536 million of costs producing the total estimate of £5.529 million. There is a small provision for possible purchase of three million units from the MOD. The costing £264,300, the department bid was therefore for £5.793 million, which we have reduced to £5.1 million because a lot of these figures contain a fuel price sensitive. Even the guaranteed purchase as a fuel cost adjustment element which depends upon the price fuel and it is a significant amount. The hon Member will see that the fuel cost adjustment surcharge has accounts for half of the total payments to OESCO. It is very fuel price sensitive, this whole figure.

Subhead 10 - Contractual Capacity Charge - OESCO Power Station was agreed to and stood part of the Bill.

Subhead 11 was agreed to and stood part of the Bill.

The House recessed at 9.20 pm.

The House resumed at 9.30 pm.

#### HEAD 4 - D FIRE SERVICE

Subheads 1 to 4 were agreed to and stood part of the Bill.

## HEAD 4 - E POST OFFICE

### Subhead 1 - Personal Emoluments

HON J J BOSSANO:

Mr Chairman, on Personal Emoluments, the salaries which go from £700,000 to £750,000 and then comes down to £727,000, is it that the £750,000 included retrospective payments?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

For the record, it is to do with the two pay awards made in the last financial year.

Subhead 1 - Personal Emoluments was agreed to and stood part of the Bill.

Subheads 2 and 3 were agreed to and stood part of the Bill.

### Subhead 4 - Operational Expenses

HON J J BOSSANO:

Could the Minister explain the new local postage stamp.

HON LT COL E M BRITTO:

Mr Chairman, it will have the letter G and the G will imply a given value at any moment in time and that given value at this moment in time will be the local postage, but because of the use of that stamp we will be buying fewer stamps from the Philatelic Bureau and hence a reduction in that Subhead.

HON J J BOSSANO:

But in fact at the moment the local cost is 5p but people can pay for higher postage.....

HON LT COL E M BRITTO:

Each G stamp will be worth 5p. Whether if one puts five G stamps and it is the equivalent of a 25p stamp or not, I do not know. I would have thought so, it is a postage stamp.

Subhead 4 - Operational Expenses was agreed to and stood part of the Bill.

### Subhead 5 - Outgoing Mail and Bulk Mailing

HON J C PEREZ:

Mr Chairman, is there a possibility of having a breakdown of how much is outgoing mail and how much is bulk mailing in order to gauge the bulk mailing operation in respect of the income derived?

HON LT COL E M BRITTO:

This information is commercially sensitive, but we will make it available to the hon Member if he wants it privately but not publicly.

HON J C PEREZ:

I appreciate it because I raised in past years the question of bulk mailing in respect of income to expenditure. I am not interested in names of carriers.

HON CHIEF MINISTER:

In the breakdown between the two.

HON J C PEREZ:

What is the essence the cost of bulk mailing to compare with the income?

HON LT COL E M BRITTO:

If the hon Member only wants to know the two figures, we will show it to him when we have the break now in a few minutes.

Subhead 5 - Outgoing Mail and Bulk Mailing was agreed to and stood part of the Bill.

Subheads 6 to 8 were agreed to and stood part of the Bill.

#### HEAD 4 - F HIGHWAYS AND SEWERS

Subheads 1 and 2 were agreed to and stood part of the Bill.

##### Subhead 3 - Office Expenses

HON J C PEREZ:

Mr Chairman, I do not know whether this is the right area to ask it, but I know that there is a contract out for the painting of roads. Is that anywhere in the Other Charges, or would that come out of the bulk vote of the Improvement and Development Fund.

HON CHIEF MINISTER:

Yes.

Subhead 3 - Office Expenses was agreed to and stood part of the Bill.

Subhead 4 was agreed to and stood part of the Bill.

#### HEAD 4 – G SPORT, LEISURE AND YOUTH AFFAIRS

Subheads 1 to 7 were agreed to and stood part of the Bill.

YOUTH AFFAIRS

##### Subhead 8 - Office Expenses

HON J J BOSSANO:

In the Youth Affairs, Personal Emoluments, I think we were told in answer to a question about the non opening of the youth centre of the Montagu Bastion at weekends. The Minister said that there was an element of social overtime which was being removed. There is no overtime at all so it is not just that it is being removed, it was never there. Where was that social overtime previously shown?

HON LT COL E M BRITTO:

Mr Chairman, the opening at weekends stopped sometime back in September/October anyway. Where that overtime was shown I do not know.

HON J J BOSSANO:

There is no overtime provision at all in any of the years here. I do not know whether Youth Affairs in 1999/2000 was shown in another Head.

HON CHIEF MINISTER:

There is a small provision for overtime under Youth Affairs – Industrial Wages, which suggests to me that the people who now go to open and close the clubs are the industrials and not the youth workers.

HON J J BOSSANO:

Given the fact that the explanation that was given was that it was not demand led, and that it was actually discontinued because it

was social overtime, I was trying to establish what was the level of social overtime that was being paid which is now being saved.

HON LT COL E M BRITTO:

It is not being saved. What I said was that we are using the money instead of for opening at weekends, we are using the money elsewhere for other overtime.

HON CHIEF MINISTER:

When they come in at night to organise a discotheque, I think it is flexy hours. The only people that get overtime are the industrials.

HON LT COL E M BRITTO:

The Chief Minister is right. The Youth Officers are on to a package of salary that includes all the hours that they work. They do not get overtime on top of their hours. So whatever overtime I was talking about in answer to the hon Member was people who do get overtime as opposed to the Youth Workers or it was a package arranged especially. If I go back to what I said this morning it was at the time when an arrangement was put into place to open the Youth Centre.

Subhead 8 – Office Expenses was agreed to and stood part of the Bill.

Subhead 9 – Operational Expenses was agreed to and stood part of the Bill.

#### HEAD 4 - H BROADCASTING

Subheads 1 and 2 were agreed to and stood part of the Bill.

#### Subhead 3 - Contribution to Gibraltar Broadcasting Corporation

HON J C PEREZ:

Mr Chairman, two things there. One which is general to all the Heads with supplementaries. Would it not be more accurate, as it was done two or three years ago, to reflect the estimate as it was and to reflect the supplementary in the forecast outturn, given that it is a supplementary which reflects increased expenditure? That is something which I think would more accurately reflect that the estimate really was £500,000 less than it shows, although there is a footnote.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, I accept that it could be done either way. I think our preference has been to do it this way because a supplementary appropriation is a supplementary estimate and one adds the original estimate and the supplementary estimate together to get the estimate for the year. I think that is the most accurate way.

HON J C PEREZ:

With the footnote it does not really matter. I thought that it was more accurate to look at the figure that was really being estimated and the difference between the figure estimated and the outturn would be the supplementary expenditure during the year. That makes more sense to me, but the footnote explaining it, it does not really matter. That is how it used to be done a couple of years ago. Mr Chairman, the point I would like to ask the Minister since he has expressed a certain amount of optimism this morning that the manner in which GBC is now trying to raise revenue is more expeditious and that they are having some success with it, whether the whole of the £500,000 supplementary had to do with the lack of revenue from GBC and whether they would have to fill in that gap in increased revenue?

HON CHIEF MINISTER:

Half of the £500,000 was previously a deficit and the other half is to meet the projected shortfall in revenue for this year.

HON J C PEREZ:

So if the cost had remained more or less the same, they would need to raise in revenue £250,000 for there not to be a need for the supplementary expenditure to cover for this year.

HON CHIEF MINISTER:

No, £200,000. Because of that £250,000, £60,000 was to pay an overdraft facility.

HON J C PEREZ:

Taking into account the salaries?

HON CHIEF MINISTER:

Yes. I was just analysing the figure that I gave him. There was an extraordinary item in it which was the repayment of the £60,000 overdraft.

Subhead 3 - Contribution to Gibraltar Broadcasting Corporation was agreed to and stood part of the Bill.

## HEAD - 5 SOCIAL AFFAIRS

### HEAD 5 - A SOCIAL SECURITY

Subheads 1 to 5 were agreed to and stood part of the Bill.

### Subhead 6 - Gibraltar Development Corporation Staff Services

HON J L BALDACHINO:

Mr Chairman, I suppose this is exactly the same as the one on the housing side that was discussed before. I see that the forecast outturn is £119,000 and the estimate was £42,000 and then it goes down to £63,000, can I have an explanation for that?

HON MRS Y DEL AGUA:

The increased cost between last year's estimates and the forecast outturn is due to the cost of employing temporary contract workers needed for the computerisation programme related to the unified collection system.

Subhead 6 - Gibraltar Development Corporation Staff Services was agreed to and stood part of the Bill.

### Subhead 7 - Investigation Services

HON J L BALDACHINO:

This is a new item, what does it actually mean?

HON MRS Y DEL AGUA:

It is a token sum provided for the investigation of suspected cases of fraud through a private investigation agency.

Subhead 7 - Investigation Services was agreed to and stood part of the Bill.

### HEAD 5 - B SOCIAL SERVICES

Subheads 1 to 5 were agreed to and stood part of the Bill.

Subhead 6 - Milbury Care Services Ltd

HON J L BALDACHINO:

I had an explanation for £1.6 million estimated. Is it the same explanation that we estimated for £1.1 million and we actually paid £1.2 million?

HON MRS Y DEL AGUA:

Yes, it is the same explanation.

HON J L BALDACHINO:

As we had an explanation for the £1.6 million that was given by the Chief Minister, what did it entail in this case that warranted £100,000 more?

HON CHIEF MINISTER:

Is he asking for a breakdown of the contract variation of last year? Contract variation from £1.014 million to £1.214 million. The Actual 1999/2000 compared to the forecast outturn 2000/2001, is that what he is asking?

HON J L BALDACHINO:

Yes.

HON CHIEF MINISTER:

The actual increase is from the Actual to the forecast outturn. Dr Giraldi Home unitisation accounted for £74,000. Bishop Healey Home staffing accounted for £45,000. There was this problem that we had with two problematic twin girls who had to be taken into care, that was £40,000. The Senior Care worker that ceased to be a Government employee and was replaced by Milbury accounts for £11,855 and the fostering service accounted for £18,000 and those are part years. None of those figures relate to

a whole year which is why the items also feature in the information I gave them this morning to explain the next increase for this year's estimates. He will recognise some of the items also featured in the list I gave him this morning, and it is because they started in the tail end of last year.

HON J L BALDACHINO:

This also covers the employees that used to be there before Milbury, this is also included in this money that is given to Milbury. Is that correct?

HON CHIEF MINISTER:

The so called Milbury employees. That is right. The people that used to work for the Giraldi Trust that were taken over by Milbury. What it does not include is the civil servants, mainly social workers and clerical staff.

Subhead 6 - Milbury Care Services Ltd was agreed to and stood part of the Bill.

Subheads 7 to 8 were agreed to and stood part of the Bill.

Subhead 9 - Workers Hostels - Gibraltar Community Projects Ltd

HON J L BALDACHINO:

Devil's Tower Hostel, last year the hon Lady said that there was already a site being provided up in Buena Vista. Is that still in Devil's Tower or is it now in the new site?

HON MRS Y DEL AGUA:

It is still in Devil's Tower.

Subhead 9 – Workers Hostels was agreed to and stood part of the Bill.

Subhead 10 - Drugs Misuse Programme was agreed to and stood part of the Bill.

Subhead 11 - Women in Need grant

HON J L BALDACHINO:

Normally the grant that was given to Women in Need was £30,000. I know this is only £10,000, but I suppose to them £10,000 means a lot. Is there a reason why we are giving them less?

HON CHIEF MINISTER:

No, it is not that we are giving less on the maintenance. The grant was always £20,000. That year we gave £30,000 because we included a one off grant of £10,000 for maintenance work on the property. The recurrent agreed level of grant is £20,000.

Subhead 11 - Women in Need grant was agreed to and stood part of the Bill.

Subhead 12 - Contribution to Elderly Care Agency

HON J J BOSSANO:

I have asked in previous questions in the House what was the cost per bed in the Agency. Is it that the cost per bed is going up or that we are getting more beds?

HON CHIEF MINISTER:

It is true that there is additional cost arising from additional nursing staff, the Geriatrician that has just been employed, but this figure, I believe, also makes a provision for some of the services that had not been provided. I understand that there is a provision there for some of the non residential services that it is

hoped will start this year. I do not know whether the hon Member would want to include that in the cost per bed. I am just trying to find evidence of that to see whether that explanation is actually accurate. It seems to me mostly a rise in the Personal Emoluments vote. The figure of the contribution in a sense is a netting off figure if he looks at the revenue side in Appendix D, but the expenditure side – no I am sorry what I was about to say is not right, the receipt from the John Mackintosh Homes, the one off receipt is separately accounted for in the receipt section. I was just going to point out the expenditure did include the one off item of the £1,500,000 in capital expenditure, but that is not balanced off by that figure. That is a separate figure. So it is mainly Personal Emoluments. I cannot see any great increase in any of the other charges items.

HON J J BOSSANO:

I was told when I asked the question in the earlier meeting of the House, that if we looked at the total cost that divided by so many beds, would give the cost per bed. I want to know whether this means an increase in capacity of any kind at all or are we still talking about the same number of beds as in the last question.

HON CHIEF MINISTER:

There are about five or six more residents than there were last time, which the staff agreed to take in with the existing complement plus one or two. There has been an increase in the establishment of one staff nurse and seven care assistants, so there has been an increase in the establishment to accommodate – the top floor is not yet opened with these figures, but they have absorbed five or six extra residents in the existing floors.

HON J J BOSSANO:

Can I ask then if on top of the five or six extra, are any of these people who were previously in St Bernard's, been moved to the Elderly Care Agency?

HON MRS Y DEL AGUA:

They were people who were taken into St Bernard's but were yet on the community list that Mount Alvernia has. They were just taken in for emergency care into St Bernard's and they happen to be transferred to Mount Alvernia from there.

Subhead 12 - Contribution to Elderly Care Agency was agreed to and stood part of the Bill.

#### HEAD 5 - C PRISON

##### Subhead 1 - Personal Emoluments

HON J C PEREZ:

Mr Chairman, I presume, if I am not wrong, that the temporary assistance has to do with wardens for female prisoners. Is that the case?

HON MRS Y DEL AGUA:

That is correct.

Subhead 1 - Personal Emoluments was agreed to and stood part of the Bill.

Subhead 2 - Industrial Wages was agreed to and stood part of the Bill.

##### Subhead 3 -Office Expenses

HON J C PEREZ:

It is a small item but it seems to me that an increase of over 100 per cent on electricity and water does not look right there, unless we are providing air conditioning.

HON CHIEF MINISTER:

That is a question of electricity consumption that previously was not being billed as a result of a metering error. This was consumption that was not being metered or billed before and which the electricity people discovered.

HON J C PEREZ:

Does this cover the real cost for the year or the cost for the year including arrears?

HON CHIEF MINISTER:

I do not know, I will have to find that out for him. As I understand his question is, was there £13,000 worth of annual unmetered electricity or is the £13,000 figure several years worth? All the arrears of unread meters have been written off in relation to the prison, so this £25,000 is one years consumption.

Subhead 3 - Office Expenses was agreed to and stood part of the Bill.

##### Subhead 4 - Operational Expenses

HON J C PEREZ:

Are these training courses in-house or do the staff have to go to the UK and the increase has to do with more people taking them or is it a different course to the ones taken in previous years?

HON MRS Y DEL AGUA:

As far as I understand it is two training courses for two new recruits and it will be carried out in the UK.



Subhead 4 - Operational Expenses was agreed to and stood part of the Bill.

Subheads 5 and 6 were agreed to and stood part of the Bill.

## HEAD 6 - TOURISM AND TRANSPORT

### HEAD 6 - A TOURISM

Subheads 1 and 2 were agreed to and stood part of the Bill.

#### Subhead 3 - Office Expenses

HON DR J J GARCIA:

Mr Chairman, just a small query in relation to 3(b). The figure estimated is less than half of the forecast outturn for the previous year, is there any particular reason for that?

HON J J HOLLIDAY:

The expenditure and the forecast outturn is higher because no provisions were made the previous year for additional bills in respect of the new terminals. These have now returned back to the normal level and the new terminals have now been appearing in other sections. The running costs and maintenance of the various sites and terminals are at 13(a) on page 60.

Subhead 3 - Office Expenses was agreed to and stood part of the Bill.

Subheads 4 to 11 were agreed to and stood part of the Bill.

#### Subhead 12 - Tourism Sites

HON DR J J GARCIA:

Mr Chairman, in relation to 12(a), the Running Expenses of the Tourism Sites, the outturn for last year was £180,000 and the

estimate is £120,000 for this year, can we have an explanation on that?

HON J J HOLLIDAY:

Yes, 12(a) Running Expenses, included a range of items like repairs and maintenance, security, telephone, printing, motor vehicle maintenance, uniforms at the various tourist sites. This figure now has been reduced, 12(c) security - £100,000, what we have done is consolidate all the security requirements under one contract, rather than spreading it out over different heads and now we have a consolidated figure and that has reduced the running expenses of the tourism site which is roughly about £60,000.

Subhead 12 - Tourism Sites was agreed to and stood part of the Bill.

Subhead 13 - Port and Coach Terminals was agreed to and stood part of the Bill.

### HEAD 6 - B TRANSPORT - AIRPORT

Subheads 1 and 2 were agreed to and stood part of the Bill.

Subhead 3 - Running of Airport was agreed to and stood part of the Bill.

### HEAD 6 - C TRANSPORT - TRAFFIC

Subheads 1 to 3 were agreed to and stood part of the Bill.

#### Subhead 4 - Office and Operational Expenses

HON J C PEREZ:

Mr Chairman, parking tickets and tows, this reflects the same number of employees in the security company or has there been an increase there?

HON J J HOLLIDAY:

Yes, there is an increase there but this has been mainly due to some discrepancies in conditions of some of the employees and claims et cetera.

HON J C PEREZ:

It is not an increase in numbers.

HON J J HOLLIDAY:

No it is not an increase in numbers.

Subhead 4 - Office and Operational Expenses was agreed to and stood part of the Bill.

Subhead 5 - Transport Inspection was agreed to and stood part of the Bill.

#### HEAD 6 - D TRANSPORT - PORT

Subheads 1 to 6 were agreed to and stood part of the Bill.

#### HEAD 6 - E TRANSPORT - SHIPPING REGISTRY

Subheads 1 to 5 were agreed to and stood part of the Bill.

#### HEAD 7 - TRADE, INDUSTRY AND TELECOMMUNICATIONS

##### Subhead 1 - Personal Emoluments

HON DR J J GARCIA:

Mr Chairman, in relation to Head 7, Subhead 1(e), which is Commercial Division, Salaries, there is an increase from a forecast outturn last year of £146,000 to an estimate for this year of £160,000, could the Minister explain that?

HON K AZOPARDI:

That is to be used in relation to a post that is being filled this year.

Subhead 1 - Personal Emoluments was agreed to and stood part of the Bill.

Subhead 2 - Industrial Wages was agreed to and stood part of the Bill.

#### ADMINISTRATION DIVISION

Subheads 3 to 5 were agreed to and stood part of the Bill.

#### Subhead 6 - Marketing, Promotions and Conferences

HON DR J J GARCIA:

In relation to this subhead – Marketing, Promotions and Conferences – the estimated figure is again considerably higher than the forecast outturn. Can the Minister explain perhaps what the idea behind that is? Are they going to do more conferences or what is the situation?

HON K AZOPARDI:

A modest increase so that we can do some e-Business marketing.

Subhead 6 - Marketing, Promotions and Conferences was agreed to and stood part of the Bill.

Subhead 7 - Contribution to Financial Services Commission was agreed to and stood part of the Bill.

## COMMERCIAL DIVISION

Subheads 8 to 11 were agreed to and stood part of the Bill.

## FINANCE CENTRE DIVISION

Subheads 12 to 15 were agreed to and stood part of the Bill.

HON DR J J GARCIA:

Mr Chairman, although we have passed it, in relation to 11(b), the Business Advisory Unit and the estimate of £16,000 where there was nothing previously, can the Minister explain that entry?

HON K AZOPARDI:

The Business Advisory Unit is paid out of EU funds until the end of 2001 it is funded under the 1997/1999 programme and what this covers is the first three months of 2002, where we will pick up the tab.

HON J L BALDACHINO:

Mr Chairman, on 11(c), there was no estimate for 2000/2001. The forecast outturn is £6,000 but there is now a big increase of £53,000, can the Minister explain that?

HON K AZOPARDI:

These are the two posts that we have created in the department. One is the e-Business Officer and the other is the Commercial Projects Officer that is scheduled to take up the post at the beginning of July.

HON J J BOSSANO:

What exactly is that these two posts have been created to do?

HON K AZOPARDI:

The e-Business Development Officer was taken on at the beginning of the year and his primary objective is to foster opportunities in e-Business, generally communications and technology in connection with the strategic objectives that I outlined yesterday. The Commercial Projects Officer is essentially to assist me principally in the progress and assignment of certain commercial land projects principally that we would like to expedite and progress in a more vigorous way.

## PLANNING AND HERITAGE DIVISION

Subheads 16 to 18 were agreed to and stood part of the Bill.

The House recessed at 10.15 pm

The House resumed at 10.45 pm

## HEAD 8 - ADMINISTRATION

### HEAD 8 - A SECRETARIAT

Subheads 1 to 5 were agreed to and stood part of the Bill.

#### Subhead 6 - Governor's Office Expenses

HON J C PEREZ:

We might as well find out what the intentions of the Government are towards the uniform.

HON CHIEF MINISTER:

As the current incumbent His Excellency the Hon David Durie is not scheduled to depart during the course of this financial year, the question of possible payments for the uniform of his successor does not arise in the context of this vote.

Subhead 6 - Governor's Office Expenses was agreed to and stood part of the Bill.

Subhead 7 - Statistics Unit

HON J J BOSSANO:

Mr Chairman, given the issue that I raised in the general principles of the Bill about the difficulty of evaluating the impact on the economy of the estimates when the labour market information is two and a half years out of date, can the Government say whether it is that the unit has insufficient resources to be able to produce the survey for 1999 which is now one and a half years out of date?

HON CHIEF MINISTER:

I do not know the answer to that Mr Chairman.

HON J J BOSSANO:

It was late when it was 15 months and the Chief Minister when he decided to change the system in 1997 told the House that it was unacceptable that 15 months after the event when we were discussing the budget, the figures for the numbers of people employed was still not finally known. At the moment we are dealing with October 1998 figures. We have not had October 1999 and we have not had October 2000, so we are now two years and five months behind the date, as compared to what was unacceptable to the Government when it was 15 months. Given that it is only one month's data it ought to be possible to do it quicker if one is doing it for one month than if one is doing it twice

a year. The rationale of twice a year was always that if one got two snapshots, one might get a better picture all round. The rationale for one must be that one can develop the snapshot quicker if it is only one. If it is that the unit has insufficient resources to produce the result of the survey in less than two and a half years, then we ought to consider when we are voting money for the unit, that we are given the reasons as to be able to finish it quicker. It seems to me perfectly reasonable to want to know whether in order to be able to get the information quicker, which the Chief Minister said it is as useful to them as it is to us.

HON CHIEF MINISTER:

Mr Chairman, I will write him a letter to explain where we are and why.

HON J J BOSSANO:

In 7 (e) we are providing in this financial year £85,000 in the provision of money for conducting statistical surveys. Given that in the past, it was £13,000, does it mean that the same people are going to be involved? If the manpower is the same and they are going to get bogged down with the census, then heaven knows when we will get the next employment survey, if we are going to stretch the people on a new survey.

HON CHIEF MINISTER:

I take the hon Member's point. I will give him a full explanation and status report in a letter that I will write to him.

Subhead 7 - Statistics Unit was agreed to and stood part of the Bill.

Subheads 8 to 12 were agreed to and stood part of the Bill.

Subhead 13 - Private Sector Fees for Legal Advice

HON J J BOSSANO:

Mr Chairman, there has been a lower amount provided this year than last year and the year before. Is it that there was specific work on which outside lawyers have been dealing and which is now complete?

HON CHIEF MINISTER:

Yes, mainly the Incinerator. The Incinerator legal fees were in the order of above £500,000.

HON J J BOSSANO:

Did that all come in the last financial year?

HON CHIEF MINISTER:

Yes.

Subhead 13 - Private Sector Fees for Legal Advice was agreed to and stood part of the Bill.

Subheads 14 to 16 were agreed to and stood part of the Bill.

Subhead 17 - Grants

HON J J BOSSANO:

Mr Chairman, the vote for sundry grants is going from £200,000 to £300,000, is it that they have identified specific entities that are now going to be provided with grants which were not in the past or is it more money to the same people?

HON CHIEF MINISTER:

The reason for the increased provision is that the Government agreed to match private sector contributions to the Luce Foundation, which is this youth development scheme foundation and we agreed to give our contribution in two yearly tranches and that this is the second of the two - £72,000.

HON J J BOSSANO:

If this is the second of the two, was there a tranche in the £200,000 voted last year?

HON CHIEF MINISTER:

I am almost certain it came out of the forecast outturn figure. Last year it came out of this same Head and we found ourselves short for other things, which is why the increase this year in the vote.

Subhead 17 - Grants was agreed to and stood part of the Bill.

Subheads 18 to 21 were agreed to and stood part of the Bill.

Subhead 22 - Research Development Studies and Professional Fees

HON J J BOSSANO:

Has the consultancy on the input/output model got anything to do with this subhead?

HON CHIEF MINISTER:

Yes. It certainly was booked to this Head. What I cannot explain to the hon Member is why the forecast outturn last year was so high. I am being reminded that we booked the HMS Tireless consultancy fees to this Head, which is why it is so high for the year just ended.

HON J J BOSSANO:

Is the provision for this year for anything other than the input/output study?

HON CHIEF MINISTER:

Mr Chairman, this is the Head to which we book all the consultants reports that the hon Members think are such a waste of money. All the postal reviews and the Buildings and Works reviews.

Subhead 22 - Research Development Studies and Professional Fees was agreed to and stood part of the Bill.

Subhead 23 - National Day was agreed to and stood part of the Bill.

#### HEAD 8 - B PERSONNEL

##### Subhead 1 - Personal Emoluments

HON J C PEREZ:

Can the Minister say whether we are any nearer to recruiting a Personnel Manager. Has anything happened since the last time I raised this in the House?

HON CHIEF MINISTER:

No, Mr Chairman. The position is as I think I last explained it to the hon Member, which is that the Chief Secretary is doing some work on the possibility of splitting the roles so that the Personnel Management, the Establishment Officer role is kept by the current incumbent of the staff and the industrial relation role is dealt with elsewhere. At least partly dealt with elsewhere with the support of the Personnel Manager's staff but without him being directly responsible for it.

Subhead 1 - Personal Emoluments was agreed to and stood part of the Bill.

Subhead 2 - Industrial Wages was agreed to and stood part of the Bill.

Subheads 3 to 5 were agreed to and stood part of the Bill.

##### Subhead 6 - Group Life Cover

HON J C PEREZ:

Is this insurance cover for the new building?

HON CHIEF MINISTER:

Mr Chairman, this is the group life cover for all public offices that the Government announced, I think it was the tail end of last year, whereby the Government now have in place a group life insurance policy to pay officers that die in service, I think it is two year's salary. It is a group life insurance policy for all civil servants that the Government have taken out. The hon Member may be interested to know that we have apparently made the first claim under it for the widow of the young messenger that died. This is the benefit of the scheme that it makes provisions for widows who are not subject to the WOPS scheme. This is why the Government took this out as a cheaper way of replacing the cover that was lost when the WOPS scheme fell into lesser use.

Subhead 6 - Group Life Cover was agreed to and stood part of the Bill.

Subhead 7 - Residential Properties, Rent and Service Charges was agreed to and stood part of the Bill.

#### HEAD 8 - C CIVIL STATUS AND REGISTRATION OFFICE

Subheads 1 and 4 were agreed to and stood part of the Bill.

## HEAD 8 - D GIBRALTAR REGULATORY AUTHORITY

Subheads 1 to 3 were agreed to and stood part of the Bill.

## HEAD 9 - FINANCE

### HEAD 9 - A FINANCIAL AND DEVELOPMENT SECRETARY

Subhead 1 to 4 were agreed to and stood part of the Bill.

### HEAD 9 - B TREASURY

#### Subhead 1 - Personal Emoluments

HON J J BOSSANO:

Mr Chairman, I raised in my contribution on the general principles of the Bill that peculiar situation to which the Principal Auditor draws attention that when the Arrears Unit has actually got a case which they are going to pursue a recalcitrant payer, they then have to go back to the Treasury. Well this is part of the Treasury. I cannot understand how they can be given the work to do in the first place and then be stopped from completing it.

HON CHIEF MINISTER:

It depends what the hon Member means by pursuing. In terms of letters and in terms of concluding arrears agreements, all that there is a standard policy guidelines and they just operate automatically. Also for taking action in court. Where specific clearance is required to pursue the matter to the point which might result in the liquidation of the company with consequent loss of employment. That is the stage at which the Government wishes to be brought back into the picture to make sure that there is no possible alternative other than to pursue that route because of the consequences to people and the loss of jobs.

HON J J BOSSANO:

So is it the Treasury that takes the decision? Has the Treasury been provided with guidelines?

HON CHIEF MINISTER:

The Treasury sends in a list that operates in a default way and the Treasury requires clearance to take any company into liquidation.

HON J J BOSSANO:

The other thing that was referred to in the Auditor's comments was other than liquidation, distress warrants, is that the same thing or not?

HON CHIEF MINISTER:

It is new ground. It has actually never been done. We are trying to work out some guidelines now that allow them to pursue that avenue but it has not been done, I have been told, on any occasion.

Subhead 1 - Personal Emoluments was agreed to and stood part of the Bill.

Subheads 2 to 12 were agreed to and stood part of the Bill.

### HEAD 9 - C CUSTOMS

Subheads 1 to 4 were agreed to and stood part of the Bill.

### HEAD 9 - D INCOME TAX

Subheads 1 to 5 were agreed to and stood part of the Bill.

## HEAD 10 - LAW OFFICERS

Subhead 1 to 4 were agreed to and stood part of the Bill.

## HEAD 11 - POLICE

Subheads 1 to 7 were agreed to and stood part of the Bill.

## HEAD 12 - JUDICIARY

Head 12 - A SUPREME COURT

Subheads 1 to 4 were agreed to and stood part of the Bill.

HEAD 12 - B MAGISTRATES' AND CORONERS' COURT

Subheads 1 to 4 were agreed to and stood part of the Bill.

## HEAD 13 - HOUSE OF ASSEMBLY

Subheads 1 to 8 were agreed to and stood part of the Bill.

## HEAD 14 - AUDIT OFFICE

Subheads 1 to 5 were agreed to and stood part of the Bill.

## HEAD 15 - SUPPLEMENTARY PROVISION

Subheads 1(a) and 1(b) were agreed to and stood part of the Bill.

HON FINANCIAL AND DEVELOPMENT SECRETARY

Mr Chairman, may I seek your indulgence at this point, it was just that the Minister for Public Services referred that we would be making an adjustment to the Lottery page and I do not know whether hon Members will want to know exactly what is adjusted to reduce the amount of loss. If I took everyone to page 119 Appendix F, essentially if one looks at the payment side, the gross prizes where we have a figure currently of £4,696,000, we

will adjust that to £4,476,000. The provision for unclaimed prizes will be reduced from £820,000 to £700,000 and that produces £3,776,000. Agents' commission on prizes, we are going to reduce that to £38,000 and the Association of State Lotteries up by a thousand to £7,000 and that has the effect, on the total expenditure line, of changing it to £4,313,000 which then produces a deficit of £13,000 which means that the deficit brought down in this year's Estimate column is only £13,000 and that will then have a knock on effect into the revenue pages of the Estimates and it will reflect into the overall summary to the effect that Government revenue for next year, because we have got less deficit to recover, will actually be £100,000 and the surplus will grow by £100,000.

## Clause 3 - Consolidated Fund Contributions

## HEAD 16 - CONTRIBUTIONS FROM CONSOLIDATED FUND - RESERVE

Subheads 1 and 2 were agreed to and stood part of the Bill.

Clause 3 was agreed to and stood part of the Bill.

## Clause 4 - Improvement and Development Fund

## HEAD 101 - HOUSING

### Subhead 1 - Major Remedial Works and Repairs to Housing Stock

HON DR R G VALARINO:

Mr Chairman, may I have a breakdown of this subhead?

HON J J NETTO:

What does the hon Member mean by a breakdown? A breakdown of projects? That would not be possible without due



notice. I can obviously get the information and pass it on to the hon Member.

HON CHIEF MINISTER:

Mr Chairman, this includes either start and completion or just start. Some of the projects will be started and completed, others will be started and therefore there will be a carry over into next year. It involves Anderson House, Glacis Estate, Miscellaneous Scaffolding Works and a provision for the replacement of windows and shutters - this is an annual tender, the hon Member will recognise. It includes works on the refurbishment of Laguna Estate, it includes refurbishment work on Tankerville House, it includes the refurbishment of Heathfield House, Coelho House, MacMillan House and a provision for further lift installation programme progress.

Subhead 1 was agreed to and stood part of the Bill.

Subheads 2 to 4 were agreed to and stood part of the Bill.

Subhead 5 Garages.

HON J J BOSSANO:

Mr Chairman, there was £10,000 put for garages last year. I do not know how many garages one can do for £10,000 but they did not do any and we have got £10,000 again.

HON J J NETTO:

I am informed that some of the parking spaces in the multi-storey car park in Laguna have been sold at a hundred per cent. Therefore, without the need to borrow from the grant, that there was a provision there in case some people could not afford the full cost, and they were opting to get a soft grant from Government at 50 per cent. The fact of the matter, as I am informed, is that people who live in the Estate have been buying

at 100 per cent without having to borrow from here. There is still a provision for this Financial Year in case some people wish to buy but at 50 per cent of the parking space.

HON J J BOSSANO:

So these are to provide loans for buying parking spaces, it is not for constructing garages?

HON J J NETTO:

That is right, for the multi-storey car park in Laguna.

Subhead 5 – Garages was agreed to and stood part of the Bill.

#### HEAD 102 - EDUCATIONAL AND CULTURAL FACILITIES

Subheads 1 and 2 were agreed to and stood part of the Bill. Subhead 3 – Schools Equipment.

HON S E LINARES:

Mr Chairman, just a simple question on this one. Since we are having in the normal Heads we have books and equipment which we spend £370,000, this is obviously a capital expenditure and I would like to know what capital expenditure this specific equipment is for.

HON DR B A LINARES:

Yes, Mr Chairman, we do make that distinction between books and equipment and classroom type of materials and this which is related to computers and furniture which has now been placed under the Improvement and Development Fund.

Subhead 3 was agreed to and stood part of the Bill.

Subheads 4 to 6 were agreed to and stood part of the Bill.

#### HEAD 103 - TOURISM AND TRANSPORT

TOURISM - Subheads 1 to 3 were agreed to and stood part of the Bill.

Subheads 4 and 5 were agreed to and stood part of the Bill.

#### TRANSPORT - TRAFFIC

##### HIGHWAYS

#### Subhead 6 Road Construction and Resurfacing

HON J C PEREZ:

Mr Chairman, I take note that £734,000 relates to EU Objective 2 projects but recently when I asked the number of contracts out for roads, I got a list from the Minister of the contractors and the contracts and the time to complete. How much of the money that we are voting today is in relation to projects that have already started?

HON CHIEF MINISTER:

Mr Chairman, there is a small amount in relation to the Waterport Road, alongside Water Gardens which is at a very late stage of completion. There is a bit of Europa Road that has not been resurfaced and there is the tail end of that contract. I do not know whether the hon Member regards the second phase of the Western Arm resurfacing is really a separate contract although it is the second phase of an existing contract. There is some minor works on the USOC Car Park. There is a bit of resurfacing work on the Ferry Terminal. For the breakdowns, it is £100,000 less than the Waterport Road contract; £40,000 left on the Europa Road resurfacing contract; but this is not really works in hand, the Western Arm is really a new phase; £10,000 on the USOC Car

Park and all the remainder are new projects that have not yet started.

HON J C PEREZ:

Can I ask the Chief Minister when I asked in the Highways and Sewers over the painting of roads, can he state what is the value of the contract that has been given and whether this means that it is a recurring one for every year or we shall be maintaining our in house capability on road painting and if he can expand on that.

HON CHIEF MINISTER:

There were two tenderers. The contract has not yet been awarded. It is waiting award, although the process is at a very advanced stage and from recollection I think the sum was just over £50,000.

HON J C PEREZ:

Is it a one off one because there is a lot of road markings?

HON CHIEF MINISTER:

It is a project basically to paint all the pedestrian crossings in Gibraltar with a special plasticated paint, like the ones they use in the United Kingdom so that it does not fade within a month or two of it being painted. It is special road markings plasticated specially applied paint that is supposed to be durable and more resistant to the wear and tear of passing traffic.

HON J C PEREZ:

Would the Chief Minister know whether this is related in any way to a notice that appeared in the Chronicle about a company that was going into liquidation but seemed not to be going into liquidation all of a sudden because it had a contract?

HON CHIEF MINISTER:

Yes, that is the one. The hon Member is asking me to announce almost the winner here now. That is one of the two companies that bid. I believe that the Tender Board has now made an adjudication of that contract, it is awarded but has not yet been communicated to the successful party.

Subhead 6 was agreed to and stood part of the Bill.

Subheads 7 and 8 were agreed to and stood part of the Bill.

#### TRANSPORT - PORT

#### HEAD 104 - INFRASTRUCTURE AND CAPITAL WORKS

Subheads 1 to 22 were agreed to and stood part of the Bill.

Subhead 23 New Hospital - Europort

HON J J BOSSANO:

Mr Chairman, are these still payments for the building or payments to contractors?

HON CHIEF MINISTER;

The bulk of it is payments for the building. There is a small provision of £300,000 for works.

Subhead 23 was agreed to and stood part of the Bill.

Subheads 24 to 26 were agreed to and stood part of the Bill.

#### HEAD 105 - ELECTRICITY

Subheads 1 to 3 were agreed to and stood part of the Bill.

#### HEAD 106 - INDUSTRY AND DEVELOPMENT

Subhead 1 was agreed to and stood part of the Bill.

#### Subhead 2 EU Konver Projects

HON J J BOSSANO:

Mr Chairman, on the Konver Projects, where there was no expenditure at all in the last year, was not in fact the bulk of the Konver Project funds being used for Casemates?

HON CHIEF MINISTER:

Not by that stage, Mr Chairman. The £930,000 is a provision for the Lathbury Barracks Industrial Park. The Konver element in the Casemates project had been expended earlier, I believe.

HON J J BOSSANO:

But then what was it then that was provided in last year's Estimates of which nothing was spent?

HON CHIEF MINISTER:

It was Lathbury Barracks which was scheduled to start.

Subhead 2 was agreed to and stood part of the Bill.

#### Subhead 3 EU Objective II Projects

HON J J BOSSANO:

Mr Chairman, the Objective II Projects, is any of this money going into the Gibraltar Development Corporation where it says contributions from Improvement and Development Fund, Head 106?

HON K AZOPARDI:

Yes, Mr Chairman, I think there is a sum of about £95,000 which is in relation to salaries of three particular individuals which are employed at DTI.

HON J J BOSSANO:

But in page 112 we have Contributions from the Improvement and Development Fund, Head 106, £340,000, and we have a footnote saying that this is paying for the Construction Training Centre and Our Lady of Europa.

HON CHIEF MINISTER:

Yes, £140,000, is for Our Lady of Europa Training Centre; £200,000 is for the Construction Training Centre which makes up the £340,000. The item that my Friend has just mentioned is also provided for under Other Projects, but not into page 112, the fourth item. The sum that my Colleague has referred to goes into page 113. That is the figure to which the Minister for Trade and Industry refers. The two items on page 112 is £140,000 Our Lady of Europa Training Centre; £200,000 for the Construction Training Centre and those come from Head 106 subhead 3.

HON J J BOSSANO:

The recurrent expenditure on Vocational Cadets wage subsidies and training and development courses, I take it are all coming from the ESF contribution which is shown at the top? But we are told that £800,000 was for money spent already the previous year?

HON CHIEF MINISTER:

There is a lag between the spending, the claiming and the payment.

HON J J BOSSANO:

The Minister for Trade and Industry mentioned Objective III when he spoke in the new EU funding and that that would be available for training. I took it to mean that there was £750,000 in Objective II plus an undisclosed sum in Objective III, is it that none of that is shown so far this year?

HON K AZOPARDI:

The £100,000 of the new Objective II programme is featured under the item on EU Objective II project, the rest of it is in respect of the previous programme. The Objective III programme is not featured on this page but the hon Member asked about an undisclosed sum, in fact it is about £650,000 a year.

HON J C PEREZ:

Mr Chairman, the Chief Minister, in his contribution, made reference to the possibility of EU funds for the telecommunications project. Is that included here? Or is it something that he is going to apply for the future? He talked about EU funds for telecommunications in his contribution.

HON CHIEF MINISTER:

There is a possibility of it. In other words, it was included in the programme document, but this is specific.

Subhead 3 was agreed to and stood part of the Bill.

Subheads 4 and 5 were agreed to and stood part of the Bill.

Subhead 6 – Strategic Fuel Reserve

HON J J BOSSANO:

Mr Chairman, was there not an agreement with the operators that they would put fuel into this storage and then issue from the

storage, or is that still under discussion, has it all been signed and sealed?

HON K AZOPARDI:

It was signed in August 1999 but it was subject to financing being obtained. Financing was not able to be obtained and the Government have reviewed the basis of the agreement with those parties and we are progressing discussions to see if we can enter into a new agreement based on new principles. That is why there is still a general provision. If those discussions reach a conclusion which allow an agreement to be finalised and entered into then there will be a need to have a head of expenditure for this item.

Subhead 6 was agreed to and stood part of the Bill.

Clause 4 was agreed to and stood part of the Bill.

Clause 5, the Schedule and the Long Title were agreed to and stood part of the Bill.

### THIRD READING

HON CHIEF MINISTER:

I have the honour to report that the Appropriation (2001 – 2002) Bill 2001, has been considered and approved at Committee Stage and agreed to, and I now move that it be read a third time and passed.

Question put. Agreed to.

The Bill was read a third time.

### ADJOURNMENT

The Hon the Chief Minister moved the adjournment of the House to Tuesday 3<sup>rd</sup> July 2001 at 10.00am.

Question put. Agreed to.

The adjournment of the House was taken at 11.35pm on Thursday 14<sup>th</sup> June 2001.

### TUESDAY 3<sup>RD</sup> JULY 2001

The House resumed at 10.00am.

PRESENT:

Mr Speaker..... (In the Chair)  
(The Hon Judge J E Alcantara CBE)

GOVERNMENT:

The Hon P R Caruana QC - Chief Minister  
The Hon K Azopardi – Minister for Trade, Industry and  
Telecommunications  
The Hon Dr B A Linares - Minister for Education, Training, Culture  
and Health  
The Hon J J Holliday - Minister for Tourism and Transport  
The Hon Lt-Col E M Britto OBE, ED - Minister for Public Services,  
the Environment, Sport and Youth  
The Hon H A Corby - Minister for Employment and Consumer  
Affairs  
The Hon J J Netto - Minister for Housing  
The Hon Mrs Y Del Agua - Minister for Social Affairs  
The Hon R Rhoda QC - Attorney-General  
The Hon T J Bristow - Financial and Development Secretary

OPPOSITION:

The Hon J J Bossano - Leader of the Opposition  
The Hon Dr J J Garcia  
The Hon J L Baldachino  
The Hon Miss M I Montegriffo  
The Hon Dr R G Valarino  
The Hon J C Perez  
The Hon S E Linares

IN ATTENDANCE:

D J Reyes Esq, ED - Clerk of the House of Assembly

DOCUMENTS LAID

The Hon the Chief Minister moved under Standing Order 7(3) to suspend Standing Order 7(1) in order to proceed with the laying of documents on the Table.

Question put. Agreed to.

The Hon the Chief Minister laid on the Table the Board of Charity Commissioners Report for the years 1998, 1999 and 2000.  
Ordered to lie.

The Hon the Minister for Education, Training, Culture and Health laid on the Table the Report and Accounts of the Gibraltar Health Authority for the year ended 31<sup>st</sup> March 1999.  
Ordered to lie.

The Hon the Financial and Development Secretary laid on the Table the following documents:-

- (1) The Revolving and Term Facilities Agreement with Natwest Offshore Ltd.
- (2) Statements of Consolidated Fund Reallocations approved by the Financial and Development Secretary (Nos. 12 and 13 of 2000/2001).

Ordered to lie.

MOTIONS

HON CHIEF MINISTER:

I beg to move under Standing Order 7(3) to suspend Standing

Order 7(1) in order to proceed with the motion standing in my name.

Question put. Agreed to.

HON CHIEF MINISTER:

I have the honour to move the motion standing in my name and which reads that:

“This House -

- (a) Acknowledges the sustained and persistent support over many decades of Lord Merrivale for the aspirations and interests of Gibraltar and its people, and their defence and promotion within and without the House of Lords,
- (b) and in recognition thereof and gratitude therefore resolve to bestow on him the Honorary Freedom of the City of Gibraltar, following his retirement from active politics in the UK consequent upon the recent reform of the House of Lords”.

Mr Speaker, Lord Merrivale, Jack Merrivale to his many friends in Gibraltar, first took up the Gibraltar cause back in March 1966 that is a full 35 years ago following his first visit to Gibraltar the previous month, during which he had seen for himself and heard about for himself the start of the Spanish restrictions against Gibraltar, which by 1966 were already in full swing. Hon Members will recall how the Spaniards had started to impose restrictions on what tourists could take back from Gibraltar across the border, how the number of cars arriving in Gibraltar had declined by 90 per cent in the previous year; how there had been no coaches at all in that year compared to one or two thousand a year before and that therefore he visited Gibraltar at the height of the escalation, it got a bit worse after that for a short while, but at the start of what amounted to the escalating restrictions that resulted in the Referendum and the subsequent closure of the border.

Once back in the United Kingdom and on his very first opportunity in the House of Lords he rose to ask a question which was a lengthy, I do not know if hon Members have seen it in Hansard, it was a lengthy exposé, the first exposition in the House of Lords of what exactly was going on in Gibraltar, blow by blow, item by item and he has been doing it ever since on whatever issue Government or other representative organisations in Gibraltar might have brought to his attention. Lord Merrivale has never shirked regardless of the party that he had ranged in front of him on the issue. Lord Merrivale never shirked in posing questions, in initiating debate, in tabling and supporting legislation, in lobbying the Government inside and outside of Parliament on any issue that he felt was important for the people of Gibraltar, our rights, our interests and our aspirations.

He started off his career by asking Her Majesty's Government whether "they would bear in mind the strong ties that have existed between Gibraltar and the United Kingdom since 1704; whether they would seek to obtain the lifting of the restrictions on the frontier before the beginning of negotiations with the Spanish

Government, and finally, what support and assistance was proposed for the future economic development of Gibraltar". That was his very first request to the British Government on our behalf. Since then, as I have said, many have been the issues which he has toiled politically on our behalf. He featured prominently in bringing to Parliament's attention issues such as subsequent Spanish restrictions. He was a leading player in ensuring that Gibraltar obtained the right to registration as British Citizens under the British Nationality Act. He has been a champion of our right to self-determination. He was vociferous in his call for viable alternatives at the time of the Dockyard closure, among many other significant landmarks in our post-war history.

Lord Merrivale has for many years been one of the leading lights in the British Gibraltar Parliamentary Group and ever since that first visit in 1966 has regularly returned to Gibraltar where he and his wife Betty have many friends and have made many friends over the years. They have been regular visitors to Gibraltar during and staunch supporters of our National Day celebrations. Lord Merrivale kept up his support for Gibraltar right up to the end of his career in the House of Lords prior to his departure from that House, as a result of the United Kingdom's Government changes to the constitution of that House. His last written question for answer by the then Minister with responsibility for the Foreign Office in the House of Lords, Baroness Scotland, was not so different to his very first question back in 1966 which also goes to show the extent of the difficulties and the similarities of the difficulties that Gibraltar has had with Spain over the last 36 years and the length of time that Lord Merrivale has been dealing with similar issues on our behalf. His question in November 1999 read as follows:- 'Regarding delays at the Gibraltar/La Linea border, whether Her Majesty's Government will invoke against Spain, Article 227 of the European Community Treaty taking into consideration their repeated statements that the situation is being watched closely and kept under review?' The answer that he received very much as in his original question that he asked in 1966 was, "We will continue to press the Commission to take effective action".

Mr Speaker, there are many politicians in the United Kingdom right across the spectrum of all parties in the House of Commons and in the House of Lords to which the people of Gibraltar should feel and do feel a debt of gratitude. Parliament is ultimately Gibraltar's last line of defence when it comes to ensuring a continuation of British Government, at a political and at an administrative level, support for Gibraltar. Nevertheless, Government believe that Lord Merrivale has demonstrated a sustained, uncompromising, unconditional support for Gibraltar of the sort that deserves to be formally recognised in this House. There are, in the Government's opinion, one or two others who may fall into that category and it is for that reason that my motion makes it clear that the bestowing of this honour on Lord Merrivale at this time is consequent upon the fact that he has now retired from active politics in UK because he no longer sits in the House of Lords or in any other House either in the United Kingdom or elsewhere and that therefore we are sending the signal not that Lord Merrivale is the only person who deserves this honour but he is the person who deserves this honour who is now retired from politics as opposed to still acting in politics. I hope and I suspect that it will be the case that this motion will enjoy the support of the Opposition Members and on that basis I commend the motion to the House.

Question proposed.

HON J J BOSSANO:

Mr Speaker, the Chief Minister supposes right. It is difficult to add to what he has said in terms of the specific examples of Lord Merrivale's commitment to Gibraltar. All I can say is that I have experienced it at first hand because in 1966, at the time when the pro-Integration movement existed, Jack Merrivale, when he came to Gibraltar before the Referendum, was taking an interest in the aspirations of the Gibraltarians in terms of decolonising but having a continuing link with the United Kingdom where there was a debate post-1966 as to whether it should be free association or integration and it was quite clear that his commitment to Gibraltar and its people was fundamentally a commitment to us being given

the right, which we are still fighting to have recognised, to decide for ourselves what should be our relationship with the UK.

The Government are right in thinking that there are other people that have shown equal dedication to our cause and that it seems to me a very good idea that we should bear them in mind when the time comes and express on behalf of the Gibraltarians our recognition for the work that they have done for us. I have no doubt that if there had been no reform of the House of Lords, given the analysis that it is his retirement from politics that has triggered the motion bestowing the Freedom of the City, we would not be doing it because Jack Merrivale would still be there and he would still be asking questions and still be pressing the UK Government.

There is no doubt whatsoever that the friends that we have in the House of Lords and clearly the reformed House of Lords may mean that we may not have them to the extent that we used to have them where people, I think, were stronger on the Gibraltar case in the House of Lords than in the House of Commons because of their historical, traditional family links going back generations in some cases of people who had served in Gibraltar and therefore we need to look now to those who get promoted from the House of Commons to the House of Lords. The fact that the United Kingdom, when it has wanted to do something going back to the Brussels declaration and the Airport Agreement and the issue of votes for the European Parliament, in every controversial area whatever UK Government has been in power, has been sensitive to the pressure exercised by Parliament and have gone to some lengths to justify when they have been able to carry the Government of the day as they did in 1984 with the Brussels Agreement it went to great lengths to justify its entering into that joint declaration with Spain on the basis that it was what the majority of this House wanted and therefore what the majority of Gibraltarians wanted. Therefore, it is quite right, in my view that the Government in the United Kingdom would get a very rough passage if they were seen to be doing something which goes against what the majority of this House wants.



The reason why that happens is because we have had champions like Lord Merrivale from the beginning of this saga, from the time that Gibraltar was first put on the agenda of the United Nations and when Spain first mounted its attack on our fundamental human rights, that he ensured that was put on the agenda of the UK Parliament and it has remained there ever since and we are delighted that the Government have taken the initiative to bring this motion to the House and delighted to have an opportunity to vote on it.

MR SPEAKER:

If no other Member wishes to speak I will call on the mover to reply.

CHIEF MINISTER:

Mr Speaker, no reply as such just simply to say something that I omitted to say during my original address and it is to inform the House that it is the Government's intention to invite Lord and Lady Merrivale to Gibraltar as our guests to receive the award in due course.

Question put. The motion was carried unanimously.

## BILLS

### FIRST AND SECOND READINGS

#### **THE PROTECTED CELL COMPANIES ORDINANCE 2001**

HON K AZOPARDI:

I have the honour to move that a Bill for an Ordinance to provide for Protected Cell Companies in Gibraltar, be read a first time.

Question put. Agreed to.

## SECOND READING

HON K AZOPARDI:

I have the honour to move that the Bill be now read a second time. Mr Speaker, this is a Bill that I have mentioned on occasions would be brought to the House because there is substantial interest in the Finance Centre for this legislation to be in place in Gibraltar. I mentioned it at budget time that this would be the case and that I would do so shortly and we were able to publish the final form after consultation with the Finance Centre Council and with the Financial Services Commission and with all other interested parties.

This consultation process has been on-going now for about 12 months, so we are quite satisfied that all relevant comments have been taken into account from the specialised sector that really need to provide input here because it is a rather technical area as hon Members will have seen.

The Bill provides a framework for the existence of protected cell company and is essentially one company consisting of its own assets and any number of self-contained cells within the company each with their own assets. The best analogy as the draftsman suggested to me is a bit like a toll, one has one company made up of branches, cells and we therefore have one corporate entity but each cell is ring-fenced as to its assets, each branch has ring-fencing as to its assets and the theory is that those assets survive on their own and cannot be attached as against each other. Likewise each cell of the company can make profits on its own or become insolvent without affecting the assets of the other cells or the company itself.

The Bill as I have mentioned is fairly technical in nature. Part 1 of the Bill deals with the formation and attributes of a protected cell company. The company may either be created as a protected cell company or converted into one if its Articles of Association so permit. A protected cell company is either or has cellular or non-cellular assets. Cellular assets have to be kept separate and

distinct from each other. Creditors of a particular cell only have recourse to that cell and not to the assets of any other cell. That is what makes essentially this vehicle attractive. Certain safeguards are provided so that only the courts can authorise a reduction in cell share capital.

A protected cell company, for example, must include the fact that it is one in name and the consent of the Financial Services Commissioner is required or the Finance Centre Director if there is an application brought by a company intending to become a protected cell. The remainder of Part 1 deals with questions of liability of cells and the companies striking a balance between the interests of creditors and of the company so that, for instance, a cell transfer order may only be made with a court authorisation.

Parts II and III deal with receivership and administration, in both cases provision is made under the supervision of the court for the orderly sorting out of the company's affairs and provided the creditors of a particular cell only have recourse to that cell.

Mr Speaker, my predecessor had asked for counsel advise to be taken on this legislation and London counsel have given an opinion to the Gibraltar Government on this matter encouraging that this legislation be put into place because protected cells can be established anyway by contract.

We do not need this law to establish protected cells but London counsel advised that the putting in place of this ordinance would be useful to provide certainty and clarity essentially in Gibraltar law so that international investors are able to see that Gibraltar has specific legislation and that then it may increase and enhance the prospects of international recognition and enforcement of orders of the Gibraltar courts and indeed of this particular vehicle internationally.

Mr Speaker, I should mention that the legislation in Gibraltar is based very heavily on the Guernsey protected cell legislation. Guernsey were innovative in this area or one of the first territories

to put in place legislation of this type and they have been fairly successful and this is why the Finance Centre in Gibraltar are eager for this legislation to be put into place. There are press releases issued by Guernsey Financial Services Commission from time to time on the impact of the protected cell legislation and how it has attracted business to Guernsey and just to give the House an idea of the uses to which this vehicle has been put in Guernsey which basically will be the uses to which it will be put in Gibraltar there have been companies registered in Guernsey for captive insurance, companies providing tax efficient products with the clients of local banks, for re-insurance and for long term insurance and re-insurance; for collective investment schemes, and now under new legislation being put into place in Guernsey as from February, also for securitisation of companies issuing bonds, notices of loans, or other debt security or instruments secured or unsecured.

I intended to bring this legislation to the House late last year but we were aware that that amendment was being considered and drafted in Guernsey so we waited until that amendment had been put into place in February this year and incorporated that into, I think it is Section II, of our Ordinance so that we now have the same uses to which the Guernsey law can be put and just to give hon Members again an idea, before I sit down, of how successful it has been in Guernsey, as of 31<sup>st</sup> January 2001, 28 protected cell companies with 138 cells have been formed for various insurance purposes and 35 companies with 142 cells have been formed for investment fund purposes and all of that apart from generating fees generates income and job creation for the sector and that is why there is interest in Gibraltar for us to deal with this. I had a word with one of the Commissioners from Guernsey who also told me that similar legislation is in place in some states of the United States, like New York and New Jersey. So while innovative it is not trail-blazing so I believe that this will be a valuable addition to Gibraltar's financial services sector. I commend the Bill to the House.

Discussion invited on the general principals and merits of the Bill.

HON DR J J GARCIA:

Mr Speaker, there are some areas in which Opposition Members would be grateful for clarification. We do understand that the Finance Sector have been pressing for this legislation for some time and also that it is not a financial services product which appears to be very widely available. As far as we have been able to establish it only exists in Guernsey, Jersey, Bermuda, the Cayman Islands and Mauritius, even then, in Guernsey since 1997 and in Mauritius since 1999. As the Minister has said the Guernsey law was updated earlier this year through regulation in February.

Mr Speaker, one area where the Opposition would welcome further information would be in relation to the tax that a company will pay, whether that is payable by each individual cell to the tax authorities in Gibraltar or whether it is actually the company as a whole that will pay the tax. There is also a further area, that is, section 11 of the Bill, the question of consents or approval from the Financial Services Commissioner or from the Finance Centre Director. It is an area where we would certainly welcome some clarification since it seems logical to us that companies licenced by the Financial Services Commissioner should not become a protected cell company without his consent, that seems clear. What we cannot understand is why in the case of companies not requiring a licence from the FSC approval or consent should be required instead from the Finance Centre Director. As in normal circumstances what anybody wanting to form a company would go to Companies House and simply register or apply to do that because it is not a licenced activity, we would like to understand why that consent or that approval is needed if the company does not need a licence.

Mr Speaker, the Minister has mentioned, and indeed the article which appeared in Lloyd's List last week also mentioned, that he has drawn very heavily on the law of Guernsey. Our examination of Guernsey law, and I shall quote an extract from one of the press releases issued by them, is the formation of a PCC only with the express consent of the Commission. There seems to be

only one authority which approves or gives consent to these type of companies as opposed to two. Also in section 11(3) which I shall read out, it is not very clear in what circumstances or what criteria is used to determine whether it is the Commissioner or whether it is the Finance Centre Director that gives that consent where it says that ".....the Minister may by regulation prescribe any other class or descriptions of any company which may be incorporated as or converted into a protected cell company with the consent of the Commissioner or the Finance Centre Director". There is no explanation as to in what circumstances it would be one or in what circumstances it would be the other in relation to Section 11(3) of the Bill. If hon Members look at section 11(4), the use of the words "as the case may be" the Commissioner or the Finance Centre Director seems to suggest that it is in relation to sub-sections (1) and (2) of section 11 that that applies. But, again, it is not something which at least on a reading of the Bill is very clear in particular this question of revoking terms or conditions and whether the way it is drafted allows for the Finance Centre Director to revoke what has been agreed by the Commissioner or vice versa in relation to section 11(4). We would welcome some clarification also on that particular area. Also, there is no indication in the Bill which we have been able to see which states what the criteria actually is for approving or for refusing applications and on what grounds this may be done by whoever, whether it is the Commissioner or whether it is the Finance Centre Director. Mr Speaker, these are the areas on which we would be grateful for some clarification from the Government.

HON KAZOPARDI:

Mr Speaker, just dealing with the points that the hon Member raised as to tax, this Ordinance was meant to sit side by side with the general provisions on tax. One can incorporate a protected cell company at any rate of tax or as an exempt company. The point is that we are assuming that these cell companies will be used for uses where the lower rates of tax will be more attractive but applications will have to be made under the relevant law as it exists from time to time which will sit side by side with this

Ordinance. It is not meant to alter those Ordinances or to affect the rate of tax in Gibraltar so similar applications will be made in due course.

HON J J BOSSANO:

Is it the cell or the company that has to make the application? Can one have a company where one cell is exempt and another cell is something else?

HON K AZOPARDI:

No. The Ordinance makes it clear that there is one legal entity. There will have to be one application. As to fees, this is a matter where research has been done as to whether we can charge fees on particular cells or whether we charge one general fee. I do not have the results of that research yet so I will not be able to enlighten the House but clearly we will take advice as to the practice in other jurisdictions.

Mr Speaker, the reason for the split in the consent between the Financial Services Commissioner, the Finance Sector Director in section 11 is that the Financial Services Commission's consent is required in relation to companies that have to be licensed under the Financial Services legislation. When companies do not have to be licensed they do not require the consent of the Financial Services Commissioner but they will require the consent of the Finance Centre Director. The reason for that difference is, as the hon Member quite rightly says, in Guernsey under their legislation the consent, whether it is licensed by the FSC or not, still only required by the Commission. The reason to require consent is that because this is an innovative vehicle, there is a philosophy that there has to be certain safeguards put into place and it is important that one of the safeguards is that the authorities give consent to the creation or conversion of a protected cell company for the protection as a safeguard to potential creditors and so on. That is the rationale behind it. As to why consent is required in the first place, the rationale as to the difference between the

Gibraltar and Guernsey laws, Guernsey requiring FSC consent and Gibraltar requiring FSC consent only in licensed entities and FCD consent on non-licensed, is that in Guernsey the Financial Services Commission is part of the Government of Guernsey, it is accountable to the Guernsey Government. It deals with applications of all types, some of which would in Gibraltar be dealt with by the Ministry of Trade, Industry and Telecommunications and so there is a necessity in Gibraltar because the law establishing the Financial Services Commission and the accountability line of the FSC is different to establish that difference. That is the only rationale behind it.

As to what circumstances would it be extended with either FSC or Finance Centre directive consent, it would depend on the particular vehicle to which we would be extending the legislation and we will have to judge from time to time. For example, when we decided to extend the drafting of this legislation we consulted internally and decided ultimately to place the consent for those vehicles in the Finance Centre directive because they are not licensed entities. We also discussed the matter with the Financial Services Commission and drew on their expertise in that. It will really depend on the appropriateness of who should give that consent depending on the vehicle as it is decided from time to time. The Ordinance is drafted widely to allow that discretion to be used after consultation with the new experts in that field. As to the revocation, the intention clearly is for the revocation of Commissioner-granted applications to be made by the Commissioner and for the directors-granted applications to be revoked by the Director. That is certainly the intention in the legislation. I think that it is clear but in any event I have made the position of the Government and the intention behind the legislation clear and that is what will be the factors followed on revocation of certificates. Mr Speaker, I think I have dealt with all the matters put by the hon Members.

Question put. Agreed to.

The Bill was read a second time.

HON K AZOPARDI:

I beg to give notice that the Committee Stage and Third Reading of the Bill be taken today.

Question put. Agreed to.

HON CHIEF MINISTER:

Mr Speaker, I wonder if I could just make a point of order on a different Bill. Hon Members may have seen but will not yet have had the required five or seven days' notice of a short Bill to clarify the ability of a Minister to introduce fees for access to the Upper Rock. If the House were to agree to bridge the period of notice we can take that Bill today. If the hon Members were not content to do so we would have to come back on Thursday morning to do that Bill. This is not an issue which the Government would wish to seek to force through, even if there is a rule that might permit it on the basis that it is important. The Bill seeks to endow the Minister for the Environment, as it would be amended to, it presently reads Tourism, but that would be an amendment, to establish terms and conditions of entry times and the fees for entry to the Nature Reserve, any conservation area, tourist and other sites. The Government's right to do this is being challenged on the basis that the fees have been raised ultra vires. It has been challenged not by the Taxi Association but another party in litigation on the basis that the Government have no power to impose fees which have been imposed for some years now as the hon Members know. We do not think the argument is well founded but rather than await for it to be established in litigation the Government consider it appropriate to put the matter beyond doubt in clarity. Mr Speaker, I have strayed beyond the point of order for which I apologise. The issue really now is only whether the hon Members are content to take this Bill today notwithstanding the fact that they have not had the five days' notice required. I think this Bill was published last Thursday and they have not had the required period of notice in which case we could come back on Friday morning or Thursday morning to do this Bill or if the hon Members

are content to proceed with the Bill notwithstanding the fact that they are a couple of days short of the required period of notice.

MR SPEAKER:

As a point of order, the first thing is to move that the Standing Order 25(2) be suspended, if everyone is agreed then it means that you agree to the shortness of time. If you do not agree to the suspension it means that the matter will be adjourned. The first step will be the suspension of Standing Order 25(2).

HON CHIEF MINISTER:

I would rather have the informal indication from the hon Members. I really would not wish to put this to the vote until I have the informal indication. If the hon Members are not content I would not wish to make this the subject matter of a formal vote.

HON J J BOSSANO:

Mr Speaker, let me say that if we had actually seen it on Thursday probably we would be quite content, but I have just seen it in the last five minutes. We would like to accommodate the Government but I do not think we would be doing our job properly if we said yes to something we have only just seen in the last five minutes. I think what it indicates is that if it was possible to get things to us on the Thursday when they are published instead of the time it takes through the normal system in situations like this to ensure we get it as soon as it comes out, then the five days are not vital. But on this occasion, certainly I have only discovered it now because the Chief Minister has mentioned it.

HON CHIEF MINISTER:

Given the hon Member's indication, it is the end of the matter. I specifically avoided doing it through any formal channel.

## COMMITTEE STAGE

HON ATTORNEY-GENERAL:

I have the honour to move that the House should resolve itself into Committee to consider the following Bills clause by clause:

- (1) The Employment Ordinance (Amendment) Bill 2001;
- (2) The Protected Cell Companies Bill 2001.

HON CHIEF MINISTER:

On a further point, given that the Nature Protection Bill is not actually on the agenda, we cannot take both the Bills that the Attorney General has just read out, otherwise there would be no Government business left on the agenda. Therefore we will take the Protected Cell Bill and leave the Employment Bill until Friday. The other thing that I would ask hon Members to consider is whether we could move Standing Orders so that we can proceed with their motion today so that all we have to do on Thursday is the Bill and that we all know is going to be a short sitting.

### THE PROTECTED CELL COMPANIES BILL 2001

Clauses 1 to 29 and the Long Title were agreed to and stood part of the Bill.

HON ATTORNEY GENERAL:

I have the honour to report that the Protected Cell Companies Bill 2001 has been considered in Committee and agreed to without amendments and I now move that it be read a third time and passed.

Question put. Agreed to.

The Bill was read a third time and passed.

## PRIVATE MEMBER'S MOTION

HON J J BOSSANO:

I beg to move the motion of which I gave notice, namely:

“That this House -

- (1) Reaffirms the position communicated by the Legislature of Gibraltar to the UN Committee of 24 in September 1964 that we would welcome visiting Missions to Gibraltar;
- (2) Notes that this invitation has been restated at the UN yearly since 1992 by successive Governments of Gibraltar;
- (3) Notes the importance attached to the sending of visiting Missions in the plans of action for the first and the second Decades for the Eradication of colonialism;
- (4) Requests the administering power to transmit to the Chairman of the Committee of 24 the desire of this House for a visiting Mission to be despatched to Gibraltar and calls upon it to facilitate the arrangements for such a visit at the earliest possible opportunity;
- (5) Calls upon the Speaker to inform the Chairman of the Committee of 24 of the text of this motion subsequent to its approval by this House.”

Mr Speaker, the purpose of the motion is self-evident from the text. The reason for bringing it at this particular time is following the events, especially in the Seminar in Cuba where the Marshall Islands clause in the report of the previous year's Seminar, which was clause 30 in Cuba, came to light and was highlighted by the Chief Minister when he was there and by myself. Even though the origin of that clause is unclear, with the Spaniards denying the Machiavellian intentions attributed to them, nevertheless and

even though that particular clause simply talks about noting a view and even though the way that view is expressed is expressed in a way that does not specifically prohibit the participation of territories which have got so-called sovereignty disputes, it simply says that those that have not should be ensured that they receive visiting Missions when they participate. However, I think it is important for us to take this particular juncture in the light of that and in the light of the conflicting answers we have had from the UK and from the Committee of 24 in a sense. As far as I am concerned, in my own dealing with this particular issue the Committee of 24 has indicated that the obstacle to their sending a visiting Mission is the absence of an invitation from the United Kingdom so to do. Invitations from the territories, not just Gibraltar but from any territory, are not in fact acceded to by the Committee unless it is with the green light from the administering power. Certainly in the UN papers that have referred, for example, to visiting Missions to Tokelau it has always been stressed that the co-operation of New Zealand has been fundamental in such Missions taking place. I believe there was a visiting Mission to the Caymans some years ago and I am not clear that that went ahead with UK's willing participation. I am not sure that there is necessarily conclusive evidence that in every visiting Mission in every case previously the need for the administering power to facilitate the visit has been fundamental to it taking place or not. Certainly, it is interesting that in the 1964 submission to the UN which was subscribed to by all the Members of the Legislative Council before and after the 1964 Constitution came in and the General Election of September 1964 took place, the Elected Members are on record saying they extend an invitation to the Committee of 24 to send a visiting Mission to Gibraltar even though the United Kingdom is not in favour. Gibraltar's position has been that we would like the United Kingdom to be in favour but independent of the fact that the UK may or may not be in favour we want them to come and I think the key element in the constant invitation for them to come is that we all believe that the best way to refute the absurd argument of Spain about the nature of the population of Gibraltar and the nature of the structure of Gibraltarian society is for the people who sit in judgement for them to come and see for themselves. They

do not have to take our word for it and I think that has been the line the Chief Minister took this year both in Cuba and in the Committee of 24. The position of the United Kingdom, the last time that we had occasion to raise the matter with the UK Minister which was when Keith Vaz came to Gibraltar, was that they had no objection but that the Committee of 24 had never asked to come on a visiting Mission to Gibraltar. When we took that point to the Committee of 24 they said that they would like to come but that they had never had an invitation from the UK. It is quite obvious that if the real reason is that nobody wants to upset Spain then the easiest way to do it is for each side to wait for the initiative to be taken by the other side and nothing happens. Certainly, the Spanish are on record in the Cuban Seminar as saying that as far as they were concerned when challenged to do so that they have no objection to a visiting Mission coming from the UN here but that it was not a matter for them but for the administering power to give permission.

The final paragraph calls upon you, Mr Speaker, to transmit this text to the Chairman of the Committee of 24 on the expectation that it will be approved by the House because I think it is a good thing that there should be communication between the House and the Committee of 24 when there is a collective view and, secondly, because I think it is important that they should be made aware of the full text of the motion and not simply be made aware of our desire that they should visit Gibraltar which they are aware of already and which is really what we are asking the United Kingdom Government to do in paragraph 4. In being made aware, of course, we would be reminding the Committee of 24 of the importance they apparently attach in that indeed they take a specific Resolution to the Fourth Committee every year urging the administering power to co-operate in facilitating such visiting Missions. In both action plans, that which was elaborated in 1990 and the updated one which has been elaborated for the second decade, high priority is given to the sending of visiting Missions in order to establish the wishes of the people of Gibraltar and in order to get first hand experience of the conditions in the remaining non self-governing territories. Indeed, it has been argued that it has been the difficulty in getting the co-operation

primarily of the United Kingdom and of the United States, because I think the French have been co-operating in respect of the few remaining French territories with the Committee of 24, but mainly UK and the USA are the ones that have not been keen to see, as it were, the Committee of 24 meddling in their back patch. The seminars were given a higher priority on the basis that if the Committee of 24 could not come to meet the people in their own territory at least the people from the different territories could send representatives to speak at seminars and therefore establish a dialogue with the Committee of 24. On that basis I hope the motion will enjoy Government support and I commend it to the House.

Question proposed.

HON CHIEF MINISTER:

Mr Speaker, needless to say the Government are broadly in support of the content and sentiment of the motion. I will be proposing certain amendments which are designed principally to render the motion technically more accurate and also to recast one paragraph for the reason that I will explain to the hon Member and to insert a new paragraph which the Government are interested in having. The Government, needless to say, would very gratefully welcome having the support of the whole House in the form of a motion in these terms to what is Government policy in relation to this issue. Just before going into the terms of my amendments, I think it is worth saying one or two things, firstly, the Spanish case at the United Nations is based on a series of often repeated misconceptions notwithstanding that they do not cease to be misconceived simply because they are often repeated. Nevertheless they do need rebutting and their misconceptions are across the whole spectrum of arguments that they feel and that we feel. Government's approach to debate at the United Nations is therefore to seek to undermine the basis upon which Spain argues, not just on the political level but also on the legalistic level and indeed on the factual level. In order to convey to the United Nations that the people of Gibraltar are not worthy beneficiaries of the right to self-determination, Spain has,

she does so less now because she could not do so with credibility, that argument is spent and can no longer be received credibly, if indeed it ever could, which I believe it could not but certainly one can run unbelievable arguments for a while and then unbelievable arguments cannot be run because they just do not run after a while Spain says that we are parachuted and we are basically living in a den of iniquity where we all earn our living stealing tax from the Spanish Exchequer or smuggling or doing this or that and she gives an impression of what Gibraltar is physically as a people which is erroneous and calculated to convey to uninformed individuals, who nevertheless vote on the issue, that this is somehow a little piece of Spanish territory in which Anglo-Saxon expatriates sent out to man the British military base live and that this is not a place with a sophisticated political structure, with a sophisticated economic structure, with a sophisticated social structure, with a people who have a clear identity of their own homogeneously formed over many years, distinct from the characteristics of the people from the metropolitan administering power. Of course, Spain understands that in measure, that she succeeds in persuading members of the United Nations that the facts are as she wrongly describes them as opposed to as they are in fact, she knows that she will keep the sympathy of the people in the United Nations. In other words, everything that Spain says and does is calculated to convey their sense, that Gibraltar is a territorial enclave artificially inhabited by people here in support of the military base. Therefore, we, as indeed the Leader of the Opposition had done, not since 1992 but since 1994, it is one of the minor amendments I hope to introduce to the motion, both he and I have appreciated the importance to dispel those factors of getting the Committee of 24 to come here and see for themselves. From the outset I have been saying to the United Nations, in effect, "look, I passionately believe in the accuracy of what I am telling you but if you think that I am subjective do not take my word for it, come and see for yourselves". Even if they do not come and see for themselves, the fact that we are openly offering them that they should already dispel, in their minds, part of what Spain is saying to them because the Committee will ask themselves "if these people really have something to hide they would not be quite so enthusiastic



about my coming to see for myself". Therefore, although coming to see for themselves is the ideal scenario, even if they do not come, the fact that we confidently invite them to do so already has a rebutting quality which is of considerable value.

Mr Speaker, not that the hon Member has conceded anything to the contrary but I would just like to place on record that the Gibraltar Government do not concede that they are not free to invite to Gibraltar whom it pleases and to bring to Gibraltar whom it pleases. We do not concede that we require the consent of the administering power to bring to Gibraltar whoever we wish to bring to Gibraltar. The difficulty is not that but rather of the Committee, the United Nations being the sort of body that it is, the Committee feel that it needs the consent and therefore I wish to introduce an amendment which draws a distinction between invitation and supporting the visit. As the hon Member knows, although from the outset of my addresses to the United Nations, as he did for two years in 1994 and 1995, I have been urging them to come to Gibraltar but in the year 2000 I included the question of the visit in what was a specific proposal to the Fourth Committee for a case by case working programme for Gibraltar. The hon Member will be aware that the plan of action now includes the Committee drawing up a case by case working programme for each territory and that I have put to the Committee, Government's proposal for that and that one of the items is this visit and it would be greatly welcomed by the Government if that aspect of the Government's policy enjoyed and was seen to enjoy the full support of the House. I do not think there is anything in the specific programme that we recommend with which the hon Members will take argument but even if there were I have drafted the amendment in a way that makes it clear that they are signalling their approval only for that part of the package which relates to the visit by the delegation so as not to extend this motion beyond any other issue other than the one upon which we are clearly agreed which is the visit. Therefore, I would like to circulate to the hon Members so that I can explain it with them having the benefit of the document in front of them.

Mr Speaker, the amendments are underlined on a piece of paper. It is an amendment to the hon Member's motion. It is not a replacement of the language of the hon Member's motion after the words "This House" as has sometimes happened in the past, a clever device invented by the now Leader of the Opposition, I am authoritatively told. The first amendment is in paragraph 2 of the motion and it is just for the sake of accuracy by replacing "1994" for "1992". The hon Member first made an invitation to the United Nations in a speech to the Committee of 24 in the summer of 1994. I readily acknowledge that this was something that he did originally and that we have continued and the change of the date is therefore not intended to achieve any purpose other than to render it accurate for the sake of prosperity.

Mr Speaker, in the hon Member's paragraph (3), his language would read "notes the importance attached to the sending of visiting Missions". I would like it to read "notes the importance attached by the Special Committee", to make it clear that we attach importance to it as well as is evident from the Resolution but we would wish to make it clear that it is the Committee themselves that are attaching importance. This is not importance being attached by anybody else or all and sundry or perhaps irrelevant people. I suspect it is what the paragraph intended to mean anyway but if it were to say "notes the importance attached by the Special Committee" it makes it clear that we are doing no more than supporting something that the Special Committee itself attaches importance to.

Mr Speaker, the next paragraph is an addition and it is just to secure the support of this House for the Government's policy of including the visit by the Special Committee delegation in a specific programme of work for the case of Gibraltar. The Leader of the Opposition may remember that starting in my address to the Committee of 24 in July 2000 and subsequently I have set out a specific working programme for Gibraltar and that one item in that work programme is the visit. Therefore, I would propose that a new paragraph (4) be inserted which reads:

“(4) notes that on the 5<sup>th</sup> July 2000 the Chief Minister requested the Special Committee to establish a specific programme of work for the case of Gibraltar comprising, amongst other things, the despatch of a visiting delegation of the Special Committee to Gibraltar.”.

Mr Speaker, moving on to what would now be paragraph (5) which is paragraph (4) in the Leader of the Opposition's text, in paragraph (4) of his text the Leader of the Opposition requests the administering power to transmit to the Chairman of the Committee of 24 the desire of this House for a visiting Mission. I do not know if these are words to which he has given precise and specific thought or whether they are just words that convey a general feeling. The transmission of the fact that the Government and the Opposition want the Committee to visit is transmitted by he and I at the United Nations. The content of this motion, which is the House collectively expressing a view on the question of this is dealt with in the last paragraph and therefore I think it is unnecessary in that context that the administering power should transmit to the Committee of 24 what we think. I think it is much more appropriate, given that the hang-up lies in the Special Committee who believe that they need the support and co-operation of the administering power, I think it would be more appropriate if we could agree to language such as this. It is there in paragraph (5) where the House calls upon the United Kingdom, as administering power, to communicate to the Chairman of the Special Committee its, that is the United Kingdom's support for such a visit and to facilitate the arrangements therefor at the earliest opportunity. Instead of asking the United Kingdom to convey to the United Nations our desire for the Committee to visit, which the United Nations already knows, what we should be asking the United Kingdom to do is to communicate to the Special Committee its support for such a visit and that they should facilitate the arrangements therefor at the earliest opportunity. Mr Speaker, the only element where we had disagreement as a matter of procedural form with the hon Members, and they know this because we have had it before on a motion, is that we do not consider that it is appropriate for the Speaker of this House to communicate on what is an intensely political issue with the

Chairman of the Committee of 24. Therefore, it is my proposed amendment that the word “Speaker” be deleted where it says “calls upon the Speaker to inform the Chairman of the Committee of 24 of the text of this motion subsequent to its approval by this House” and to replace them by the words “Chief Minister, as leader of this House”. The hon Member's paragraph (6) would read:

“(6) calls upon the Chief Minister, as Leader of this House, to inform the Chairman of the Committee of 24 of the text of this motion subsequent to its approval by this House.”.

Mr Speaker, I hope that the hon Members can agree, perhaps with the exception of the last point but that the amendments that I have proposed to the text of the Leader of the Opposition's motion are intended to be more specific in achieving the aim that I believe that we all want to bring about, that it does not depart from the fact that this is an issue upon which I think the Government and the Opposition have the same position and in terms of the new paragraph (4) it would be a matter of assistance and support to the Government that the United Nations should know that the Government have the support of the whole House when it asks it to include the working visit as part of any work programme that it brings to Gibraltar. I commend my amendment to the House.

Question proposed.

HON J J BOSSANO:

Mr Speaker, if I give an indication of our reaction then we can decide whether it is something we should try and make any further changes or not. The whole purpose of the exercise of sending a motion to the UN is that it should be without any votes against, otherwise even if it is carried by a majority it would not carry the same weight. As far as I am concerned, we have got things to say about paragraphs (4) and (5) which are, I think, of a fundamental nature as opposed to simply the way that it was drafted. We have got no problems with the first two amendments. If I can go straight into paragraphs (4) and (5). As far as

paragraph (4) is concerned, we have no problem with voting in favour but I think the link between paragraph (4) and paragraph (5) gives us a problem because in fact if (5) says that we are asking for the administering power to support such a visit, that is a visit as part of a work programme, then it seems to me that we are narrowing the scope of the invitation so that unless it is part of the work programme the visit does not take place. We believe that that in itself produces the possibility that the visit will not take place because the work programme is not yet ready. The invitations, prior to this year, have been independent of the work programme that we have previously transmitted and therefore whilst we have no problem in noting the policy of the Government that it should be part of the work programme and, indeed, supporting it within the work programme, we would also like to make clear that the invitation at this stage is that they should come at the earliest possible opportunity even if the work programme is not ready. Whereas, it seems to me that paragraph (5) says support for such a visit can only mean a visit as defined in paragraph (4) which is a visit within the work programme. The invitation that we have issued since 1994 and indeed the ones from 1964 had nothing to do with the work programme as such and in the plan of action of 1990 the visiting missions were there independent of the work programme and the visiting missions that have taken place to New Caledonia and Tokelau have nothing to do with work programmes in those territories and the one to Cayman Islands did not have anything to do with the work programme so whilst we are willing to support that it should be within the work programme we do not want that to be converted into only if it is within the work programme and not otherwise. We think that that may give an opportunity to the administering power to do precisely that and nothing else. I am saying that provided, when we come to paragraph (5), if it is drafted in a way which does not limit it only to the visit within the work programme then we are happy with paragraph (4).

HON CHIEF MINISTER:

Yes, the point that the hon Member has made is obviously not the intention. I suspect that we might be able to eliminate the risk that

he sees in the linkage by deleting the word "such" from paragraph (5) so that it should read ".....Chairman of the Special Committee, its support for....." delete "such" so that it would read "..... for a visit by the Special Committee to Gibraltar and to facilitate the arrangements..." delete "therefor" and insert "for such a visit at the earliest opportunity". In other words making it clear that what we are calling for in paragraph (5) is a visit..... eliminate the word "such" altogether, leave "therefor" so that it reads "...calls upon the United Kingdom as administering power to communicate to the Chairman of the Special Committee its support for a visit by the Special Committee to Gibraltar and to facilitate the arrangements therefor at the earliest opportunity". By the elimination of the word "such" and replacing it with the words "a visit" it eliminates the linkage between the two paragraphs. If the hon Members are content with that language I would withdraw my proposed amendment and replace it with the one that I have just read out.

HON J J BOSSANO:

There is one other point in relation to paragraph (5) and that is in the original motion we asked the administering power to transmit to the Chairman the wish of this House that they should come. The Chief Minister asked whether this was something that we had thought about or whether it was just the wording that we thought of putting together. The answer is yes. Clearly for the administering power to signal its willingness to facilitate arrangements and the facilitating of the arrangements is the wording they use in the documentation of the Committee of 24 it must be implicit that they are supportive of the visit, otherwise they would put obstacles in the way of the visit instead of facilitating things. But if we are asking the United Kingdom to support the visit, I am not sure the United Kingdom will go beyond telling us "we do not support the visit" and that is it. By requiring them to transmit our invitation which they will have had already we suggested to do this through you, Mr Speaker, however, the Chief Minister prefers to do it on behalf of the House as Leader of the House, as long as it gets there it does not really matter, but in any case we put the United Kingdom in the position of asking

them to say to the Committee "I have been asked by the Gibraltar House of Assembly to transmit to you their wish that you visit them". They may even refuse to do that but not asking them to do even less than the amendment as I think the amendment takes the requirement of their involvement one degree higher and may be more difficult to obtain than the original one, it really puts them in a difficult spot because having transmitted it then they are more boxed into having to enter into a discussion of how they should come. I think it is difficult for the United Kingdom to even refuse to transmit officially through the UK Mission at the UN the unanimous wishes of this House. Really, the difference is that to a greater degree the original wording is simply asking for the UK Mission to become a post-box arrangement for the House, whereas the second may require a policy decision by the Foreign Office as to whether they support it and they could well come back and say "look, supporting visiting Missions is not something that we do in respect of any of the Dependent Territories and therefore supporting it in respect of Gibraltar.....". I can well imagine that they could come out with that kind of argument. I am not sure that they can use the same strength of argument with simply transmitting our wishes and I think that if they are required and they accept that they have a duty to transmit what we say through the UK Mission at the UN, then it at least engages them with the Committee of 24 and it is something that we can then pursue in subsequent appearances before asking the Committee of 24 what it proposes to do, having received the information through the UK. It is a question of deciding what is the most fruitful route, rather than anything else, but that is the only concern I have about altering our demand on the United Kingdom from purely one of saying "tell the UN what we want in Gibraltar to tell the UN that you support what we want in Gibraltar." I think there is a qualitative difference.

MR SPEAKER:

If you had your way your amendment would be what?

HON CHIEF MINISTER:

If he had his way he would vote against my amendment.

HON J J BOSSANO:

No, I would not vote against the amendment. I would.....

HON CHIEF MINISTER;

Mr Speaker, I have no difficulty with using the UK as well. I am quite happy to add back the request that the UK passes on..... I think it is not necessary but if the hon Member thinks that there is some tactical advantage in that it puts the UK in a position where they either have to comply or refuse even to be the postman, I am content that that goes back into the Resolution but I would put it in addition to and not instead of so that we are asking them to do two things separately. We are asking them to convey our wish and we are asking them to convey their support and the arrangement I think can be done by adding to my proposed language in paragraph (5) "calls upon the UK as administering power to transmit to the Chairman of the Committee of 24 the desire of this House for a visiting Mission to be despatched to Gibraltar and to communicate to the said Chairman its support..." and perhaps now we can leave "such a visit", "for such a visit and to facilitate the arrangements therefor at the earliest opportunity". If the hon Members will support that language I will withdraw my original language in support of that one which, in effect, combines the original paragraph (4) with a new request and that is that the United Kingdom in addition to the things that they were being requested to do in the original paragraph (4) also communicates to the Special Committee their support for such a visit. The amendment would read:

"(5) Calls upon the United Kingdom, as Administering Power, to transmit to the Chairman of the Committee of 24 the desire of this House for a visiting Mission to be despatched to Gibraltar and to communicate to the said Chairman the United Kingdom's support for such a visit

and to facilitate the arrangements therefor at the earliest opportunity;”

Therefore, Mr Speaker, the amended motion should read:

“This House –

- (1) Reaffirms the position communicated by the legislature of Gibraltar to the UN Committee of 24 in September 1964 that we would welcome visiting missions to Gibraltar.
- (2) Notes that this invitation has been restated at the UN yearly since 1994 by successive Governments of Gibraltar.
- (3) Notes the importance attached by the Special Committee to the sending of visiting missions in the plans of action for the first and second Decades for the Eradication of Colonialism.
- (4) Notes that on the 5<sup>th</sup> July 2000 the Chief Minister requested the Special Committee to establish a specific programme of work for the case of Gibraltar comprising, amongst other things, the dispatch of a visiting delegation of the Special Committee to Gibraltar.
- (5) Calls upon the UK, as Administering Power, to transmit to the Chairman of the Committee of 24 the desire of this House for a visiting mission to be despatched to Gibraltar and to communicate to the said Chairman the United Kingdom’s support for such a visit and to facilitate the arrangements therefore at the earliest opportunity.
- (6) Calls upon the Chief Minister, as Leader of this House, to inform the Chairman of the Committee of 24 of the text of this motion subsequent to its approval by this House.”

Question put. Amended motion carried unanimously.

ADJOURNMENT:

The Hon the Chief Minister moved the adjournment of the House to Thursday 5<sup>th</sup> July 2001, at 9:30am.

Question Put. Agreed to.

The adjournment of the House was taken at 11:40am on Tuesday 3<sup>rd</sup> July 2001.

### THURSDAY 5<sup>TH</sup> JULY 2001

The House resumed at 9:35am.

PRESENT:

Mr Speaker.....(In the Chair)  
(The Hon Judge J E Alcantara CBE)

GOVERNMENT:

The Hon P R Caruana QC - Chief Minister  
The Hon K Azopardi - Minister for Trade, Industry and Telecommunications  
The Hon Dr B A Linares - Minister for Education, Training, Culture and Health  
The Hon J J Holliday - Minister for Tourism and Transport  
The Hon Lt-Col E M Britto OBE ED - Minister for Public Services, the Environment, Sport and Youth  
The Hon H A Corby - Minister for Employment and Consumer Affairs  
The Hon J J Netto - Minister for Housing  
The Hon Mrs Y Del Agua - Minister for Social Affairs  
The Hon R Rhoda QC – Attorney General  
The Hon T J Bristow - Financial and Development Secretary

OPPOSITION:

The Hon J J Bossano - Leader of the Opposition  
The Hon Dr J J Garcia  
The Hon J L Baldachino  
The Hon Miss M I Montegriffo  
The Hon Dr R G Valarino  
The Hon J C Perez  
The Hon S E Linares

IN ATTENDANCE:

D J Reyes Esq, ED - Clerk of the House of Assembly.

HON J J BOSSANO:

Mr Speaker, I would like to refer to a statement that I made in the middle of the budget session which I understand failed to be recorded and I would like therefore to repeat what I said and I do not doubt that other Members will want to as well so that on this occasion it is recorded and perhaps you can confirm when it is an appropriate time to do so, so that we do not have the same thing happening as when I rose in the middle of the budget.

HON CHIEF MINISTER:

If the Leader of the Opposition is referring to the issue of tribute paid by Members of both sides of the House to a recent member of the staff of the House my Colleague the Minister for Housing has written to Mr Speaker on the 25<sup>th</sup> June and a copy of that letter was sent to the Leader of the Opposition which is how presumably he discovered that the matter is not in Hansard. Mr Speaker, having written to you it is probably more appropriate to allow Mr Speaker to deal with it himself rather than across the floor of the House. I do not think it is a question of repeating the statements, the statements are presumably on tape.

HON J J BOSSANO:

My understanding is that they are not on tape and therefore I do not see what can be done about it, if they are on tape then fine, if they are not on tape then they need to be put on tape otherwise they cannot be reflected in Hansard.

HON CHIEF MINISTER:

If that were the case the hon Member is right but Mr Speaker it would be extremely odd if everything that was said immediately before it were on tape and everything that was said immediately after was not on tape. If there was a tape that is damaged then more would be lost than just this tribute, perhaps we could have an indication from Mr Speaker whether an attempt has been made to find this on tape.

MR SPEAKER:

Let me clear the situation. When the statement was made, the House had already been adjourned and it was in the early hours of Saturday morning but the Leader of the Opposition stood up, the tape had already been stopped, it was out of order, but out of courtesy I allowed him to speak and he made his statement. It is not recorded. If you want it recorded then repeat it.

HON J J BOSSANO:

Mr Speaker, the purpose of the exercise is to have a record in the archives of the House of the appreciation of the Members. This is not something that is being done for the first time. It has been done on previous occasions for long-standing members of this House who have either retired or have moved elsewhere. I recall the Hon Keith Azopardi on behalf of the Government joined in the sentiments and contributed in reflecting what we all feel in this House about Jenny's service. She has been with us for 15 years and frankly I took the initiative of rising to put across my sentiments simply because probably I happen to be the Member of the House that she has served longest both in Opposition and

Government. I made the point that, as Members of the opposite side who have been in Opposition will know, that given the fact that the staff of the House serves both sides of the House as the staff of the Parliament but not the staff of the Government nevertheless for the Members of the Opposition the degree to which members of the staff serve the elected Members are willing to go the extra length to provide information and support to Members of the Opposition. It is obviously an important part of the work of our Parliament because when in Government one is able to access the resources of the civil service and when in Opposition one is really limited to the support of members of the staff of the House as I have no doubt Grace is doing already. I was not aware that she was working for the Minister for Employment until he copied to me the letter he wrote to you over this particular mishap where the record did not reflect what we said about her. All I can say is that our loss is the hon Member's gain. We wish her the very best in the new field that she is in and that we remember with fondness and gratitude the dedication and the cheerfulness that she was always reflecting in her work to all Members of this House. It is not the same as I said before but more or less the same.

HON CHIEF MINISTER:

Mr Speaker, all this occurred whilst I was not in the Chamber, so I cannot say at what time of the day it was. I do not recall being out of the Chamber at two o'clock in the morning but certainly I was not in the Chamber and therefore I just limit myself to repeating the Government's endorsement of the words of the Leader of the Opposition so that they should all feature on the record. I believe that it is a tradition in this House that when a long-serving member of staff leaves us that we recognise it. As the Leader of the Opposition has said there are many instances in which Members of this Parliament rely on members of the staff in the House almost beyond the call of duty and that members of the staff of this House have traditionally shown to its Members a courtesy, a degree of service, a degree of understanding, a degree of camaraderie when we all find ourselves in the ante-room indeed which is I think something special. Certainly, I have

worked with Jenny since I have been in this House since the by-election in 1990. I have always found her to be an extremely courteous, helpful and valuable member of the staff of the House and certainly I would wish not just to associate the Government with the words of the Leader of the Opposition but indeed endorse them on behalf of the Government as well.

MR SPEAKER:

If at any time any Member of the House has a bone to pick with the Speaker, I think the thing to do is to come and see the Speaker and not write a letter to the Speaker with copies to other Members of the House. I will repeat what I said about Mrs Coelho. She left at her own request by asking for a transfer and I am going to take this opportunity to record my appreciation to the previous Clerk of the House, Mr Figueras whom no one talked about.

HON CHIEF MINISTER:

Mr Speaker, with the greatest of respect, that is not my recollection of events and whilst the Government take note of what Mr Speaker has said in respect to writing, I frankly do not believe that there is anything inappropriate in a Member of the House writing to Mr Speaker and circulating the letter to other Members. If it were a letter that contains something embarrassing or something inappropriate or something of a personal nature, then I think everything that Mr Speaker has said would apply to it. The letter to which Mr Speaker refers is a perfectly innocuous letter. It does not constitute picking a bone with the Speaker. Even if everything that Mr Speaker has said applies to picking a bone with the Speaker, I would not wish it to be thought by anyone listening to these proceedings that the letter to which he has referred and which I have identified the writer of earlier, namely Mr Netto, contains nothing which was remotely capable of being interpreted as picking a bone with the Speaker. That was not Mr Netto's intention and the letter does not do so. It

is an attempt to establish the accuracy of Hansard in respect of the proceedings of this House.

MR SPEAKER:

My last word is to say nothing.

## BILLS

### FIRST AND SECOND READINGS

HON CHIEF MINISTER:

I beg to move under Standing Order 7(3) to suspend Standing Order 7(1) in order to proceed with the First and Second Readings of a Bill.

Question put. Agreed to.

#### **THE NATURE PROTECTION (AMENDMENT) ORDINANCE 2001**

HON CHIEF MINISTER:

I have the honour to move that a Bill for an Ordinance to amend the Nature Protection Ordinance 1991 to provide for the Minister to regulate admission into a nature conservation area, be read a first time.

Question put. Agreed to.

#### **SECOND READING**

HON CHIEF MINISTER:

I have the honour to move that the Bill be now read a second time. Mr Speaker, this Bill for an Ordinance, adds a new section to the Nature Protection Ordinance 1991 to provide the Minister, it

says "for Tourism" but that is an error which I will move by amendment to read "for the Environment", with power to set the terms and conditions and the fees for entry into a Nature Conservation Area. Both the present and the previous Government have proceeded on the basis that the existing regulation-making powers in the Nature Protection Ordinance are sufficient to enable the Upper Rock entry regime, if I could call it loosely, that was introduced by the previous Government, to have been introduced by them originally and then to have been modified and continued by us in office. Indeed, we believe that that is the correct view and that the regulation-making powers indeed do extend that far. That view has been challenged in litigation and although the Government have every intention of defending that litigation vigorously and through the Courts, it nevertheless is appropriate given that there is financial payment involved, to put the matter absolutely and unarguably beyond doubt, not thereby to suggest that the need to put it beyond doubt constitutes any admission or concession but rather to ensure that and without prejudice to the fact that the existing Regulation-making power is sufficient then on a belt and braces basis to put it absolutely beyond the pale even of contradiction. For that reason, Mr Speaker, the hon Members have before them a Bill which seeks to give the Minister with responsibility for Tourism and, I will at the Committee Stage move the amendment that I have already suggested in that respect, may by order published in the Gazette set:

- (a) the terms and conditions of entry, including times and dates; and
- (b) the fees for entry.

Both of those are the two elements of the regime. The fact that the Nature Reserve closes at a certain time of the day, that there is a barrier that one cannot get in, the fact that traffic flow arrangements change at a particular time of the day, plus the fact of the charging of fees for access to the Reserve, constitute the regime. The control of entry points, the closure at certain times of



the day, I apologise to hon Members as I cannot recall what the time is, and the entry fees, constitute that regime and the proposal in this Bill is that all of that may be done by regulation by the Minister. In other words, it is re-stating, by way of certainty and clarification, the enabling power in the principal Ordinance for these Regulations to be made.

Mr Speaker, there is not a great deal more that I can say on the Bill except marginally related to it, the Opposition Members introduced the concept of fees for entry into the Upper Rock, the Government continued and have sought to increase the fees, given the number of years that has passed since they were last set. We have done that despite an element of vociferous view to the contrary from a local source because it is one of the few contributions to local revenue other than the traditional ones to which non-residents also contribute. We do not think it is appropriate to forego that source of revenue which enables the Government to keep many people in stable employment and therefore the Government have no intention of removing the fee structure for the entry into the Upper Rock Nature Reserve. We believe it continues to be very modestly set compared to such fees in other countries and it is an important part of the Government's financial structure in relation to the maintenance of the Upper Rock generally as a Nature Reserve. I commend the Bill to the House.

Discussion invited on the general principles and merits of the Bill.

HON DR J J GARCIA:

Mr Speaker, there are a number of areas in relation to this Bill where the Opposition would be grateful for some clarification. In our analysis of the Bill and of the general principles surrounding it and the reasons why it has been introduced there are some areas which are not very clear. This is not the first time that the Nature Protection Ordinance gives rise to controversy in Gibraltar. This particular Bill and the raising of fees in April by the Government have also been controversial as well. The original Regulations in 1993 made it clear that the decision to charge to enter the Upper

Rock was an environmental levy and not a tax and the money was to be used for the former purpose. In the Upper Rock Nature Reserve Fees and Admission Regulations of 1993, in the third section of that it says "the fees provided for in Regulation (2) shall be collected by Sights Management on behalf of the Gibraltar Tourism Agency and shall be retained by the Tourism Agency for the purposes of the administration of nature conservation areas". The money so raised, according to the original Regulations would stay in the Upper Rock for issues like protecting and safeguarding the national environment. The Bill, however, deals with raising money from tourists in order to spend that money on tourism and tourism-related matters, not necessarily on the environment and not necessarily on the Upper Rock itself. Upper Rock fees could be used to pay for tourism marketing generally, to host visits or cocktail parties or it could even be used outside Gibraltar to pay for the Tourist Office in Madrid, for instance. This really, as far as we see it, is not the purpose of an environmental levy and indeed, Mr Speaker, in their Press Release No.50/2001 the Government themselves make it quite clear that the funds are not restricted for use in the Nature Reserve. I shall read out, if I may, the last paragraph of that particular Press Release: "The increased charges are justified by Government's continuing high level of expenditure in the Upper Rock and tourist sites, rising salaries and numbers of staff in sites and tourism and, generally, Government expenditure on tourism and tourism marketing generally. It is right that visitors should make a contribution to Government coffers, otherwise the whole cost falls on the Gibraltar taxpayer at the expense of other public services and projects of higher taxation". Mr Speaker, this is one area in which we would certainly welcome clarification in relation to what was done originally and what the Government intend to do with the money now. To the Opposition there is a degree of inconsistency in this and we would like to have that cleared up.

Mr Speaker, the purpose of the increase in April to which the Bill relates and of the Bill now in July is to raise charges as a general revenue raising measure as opposed to paying for the protection of the natural environment, that is the essential point which we want to make on that particular aspect of the Bill or of what it

purports to do. On Tuesday the Chief Minister mentioned the impending Court case in relation to the incident of April where the raising of fees et cetera was being challenged and at the time he said that this was done because the actions of the Government were claimed to be ultra vires and an element of this had already been reported in the media because the law as it stands now, before the amendment, did not give the Government the power to do what it did then. The House was told on Tuesday, and the Chief Minister has repeated it today, that this was done not because the Government feared they would lose the Court case but rather because they wanted to place it beyond doubt that they had the power to raise revenue and to raise fees in this particular way. The Opposition considers that the Court should be allowed to decide on this particular matter. The Bill potentially could give the Government the power to do something that was illegal at the time they did it in April and now make it legal. I think it would be important to hear the Chief Minister's views on that point as well. In the Government's own Press Release, the same one of the 3<sup>rd</sup> April, which related to the increase of fees to the Upper Rock, the impression given was that the issue in dispute was not the general principles as to whether the Government could actually raise revenue or not but as to the specific contractual dispute between M H Bland and the Government. If I may I will just briefly quote from that: "M H Bland claim that under the terms of a written agreement entered into by the previous Government the Government are not entitled to charge £3 to cable car passengers. During the weekend M H Bland obtained an interim injunction in the Supreme Court temporarily forbidding the Government to apply those new environmental levies to the Cable Car. The Government rejects M H Bland's contention and will challenge the injunction in Court." The contention that the Government spoke about challenging in the press release and also on Tuesday, related to this narrow contractual problem which had arisen with M H Bland and I suppose to the wider points about its ability to raise fees which is what the Chief Minister has addressed today. That is an area where the Opposition Members would welcome clarification because the issues are really not very clear.

On a separate matter, Mr Speaker, it would be useful to know whether the Nature Conservancy Council have been consulted about the decision to increase fees in April and indeed over the Bill that we have before us today. The House will be aware that section 24 of the Nature Protection Ordinance which we are amending reads as follows:

"24. The Governor may, after consultation with the Nature Conservancy Council make regulations to carry into effect the provisions of this Ordinance and without prejudice to the generality....."

That is what the law actually says, "...after consultation with the Nature Conservancy Council.....". Given that we have not heard of this particular body having been involved in the decisions or consulted over the Bill we would like some clarification from the Chief Minister on that point as well.

It would be useful also to know, what exactly was the legal mechanism that the Government used in order to raise the fees in April? We found the law, we found the 1993 Regulations which were made under the Ordinance but we have not been able to find any new Regulations issued before the increase in March or in April giving legal effect to the increases that have taken place. Certainly it would be very useful to hear from the Government how this particular increase was enshrined in law given that we are talking about the same Ordinance which we are seeking to amend today.

Mr Speaker, the Opposition had their reservations at the time that the Government chose to increase the fees into the Upper Rock. We also have our doubts as to the manner in which this was done and we have expressed our concerns that there are a number of inconsistencies in relation to all this which have not been adequately explained to us. The Bill as we see it, to sum up, is more about increasing the charges and increasing the fees to the Upper Rock and whatever link it may have to the Cable Car court case we cannot see that it is for those narrow reasons only that this has happened and indeed the Chief Minister has gone on to

explain and to widen the original problem to a wider issue about charging fees in the first place. The original Regulations saw the fee as an environmental levy to be used in the Nature Conservation areas. It was not envisaged as a wider revenue-raising measure that it has now become. This in itself is a new policy and a new departure and these are the areas on which we would like some clarification from the Government.

HON CHIEF MINISTER:

Mr Speaker, I find the hon Member professes, at least outwardly, I am beginning to doubt whether he actually feels it in his heart, a conviction and passion for constitutional reform, decolonisation and the assertion of our rights against the colonial power at every opportunity. Now I know, of course, that it is all a mealy mouthed political device, he takes every opportunity offered to him to lament the fact that the Government seek to do things and give themselves powers to do things which previously used to be done by others.

HON DR J J GARCIA:

On a point of order, the issue which the Chief Minister has raised is not a point which I raised in my address or which I have made.

MR SPEAKER:

That is not a point of order.

HON CHIEF MINISTER:

Mr Speaker, the hon Member made it one of his specific points to lament the fact that the Nature Conservancy Council had not been consulted by His Excellency the Governor. He picked up that the Regulation says that the fees should be increased by the Governor after consultation with the Nature Conservancy Council and that the Nature Conservancy Council had not been consulted on this issue. Mr Speaker, as the hon Member himself has read out the rules in question, he must know, it is not a legal provision

of which frankly I approve, and my own inclination would be to change it at a convenient moment, but what it requires. His Excellency to do the consultation of the Nature Conservancy Council is for the exercise of His Excellency's powers under those Regulations to increase fees under those Regulations. Thank goodness that there is no law on our Statute Book which says, which is what it would need to say for the hon Member's comments to have been sensible, that this House cannot change the law without His Excellency consulting the Nature Conservancy Council. This Bill does not seek to exercise the powers contained in the current Regulation. It is only the exercise of the powers under the current Regulations that require the Governor to consult with the Nature Conservancy Council. What we are doing in this House is setting up a new Regulation and I do not see why the hon Member should believe that we should consult. However, I am confident that our consultation with the Nature Conservancy Council is more or less of the same order as the previous Government's consultation with the Nature Conservancy Council might have been, indeed if they ever consulted them. Certainly, it would have been an exception to their rule, publicly stated, that they regarded consultation as a waste of time.

Mr Speaker, the hon Member seeks clarification of the Bill on the basis that it says that it is all going to be spent on tourism. I do not see that the Bill says that at all and certainly nothing that I have said in the presentation of the Bill says that. What I have said in this House on the presentation of the Bill is that the money will be spent for the general purposes of maintenance, and the maintenance of employment in the Upper Rock. I certainly do not accept the constraints that the hon Member seeks to put about how public revenue is spent. The hon Member has been in this House long enough to understand that now, it used not to be the case when public finances were organised in a less transparent fashion, it is now the case that all revenue collected by the Government goes into the Consolidated Fund so that he as a Member of this House can enjoy the privilege that the law gives him to decide how it is spent. The hon Member must know that the principle of the collection of Government revenue into the Consolidated Fund for purposes of specific expenditure only

exists in public finances in respect of pension contributions and in respect of Group Practice Medical Scheme contributions and Social Security stamps and the things for which it contributes, that everything else goes into the Consolidated Fund and that he and I, then come budget time, decide how much needs to be spent on what and on what the expenditure should be incurred. Certainly, if Opposition Members object to the Bill on the basis that it just amounts to general Government revenue which this House then decides how it should be spent then we shall agree to differ. The hon Members will vote against this and we will vote in favour of it because we think that it is a perfectly usual and proper mechanism. As to what the money is spent on, the hon Member now has the difficulty that he has attached himself to the baggage of the Party that he has chosen to join in alliance. The hon Member speaks in this House as the Opposition spokesman on this issue, not just for the Party that he leads but for the whole of the Opposition including the other Party represented on that side of the House which constituted the previous Government. If the hon Member thinks that the revenue from the Upper Rock was previously spent by the previous administration only on the things that he has now suggested they should only be spent on, then he has not researched the matter sufficiently. I understand that he will have difficulty in researching the matter sufficiently because of course there was not publicly available information exactly about how the Gibraltar Information Bureau used to spend its money and therefore he may have to say that he does not know how it used to be spent before and I would understand that. The hon Member should understand also that there is no change of principle in the application of these funds and they continue to be treated on the same basis as this source of revenue has always been treated since they started to be levied. Certainly, what is happening is that they are being increased, that is true but what the hon Member has recommended to the Government as being the basis upon which he requires clarification is not the basis upon which these fees used to be dealt with in the previous administration or indeed by this administration since we took over. Please do not misunderstand me, in respect of this aspect I am not suggesting that the application of the fund by the previous administration was inappropriate. I consider them to have been

spent for the general good of the taxpayer and therefore, as far as I am concerned, that is the proper criteria.

Mr Speaker, the hon Member said that the Court should be allowed to decide. I much regret that it is not possible even to give the hon Member gratuitous indications about things which the Government really have no obligation to give even an indication. Then the hon Member seizes on them and attempts, not effectively, but attempts in a way which defeats the sensitivity of the matter in a completely irrelevant way. The hon Member is not a lawyer but I believe he is married to one and if he is not married to one, which I believe he is, then I know that he has many friends, that he frequently consults before he stands up in this House to make his speeches, in the legal profession. He therefore has to him sufficient sources of advice to enable him to know, firstly, that we cannot in this House discuss the details of the case. The hon Member invited me to express a view about this or that. He must know that there are rules about the discussion of matters that are sub judice in this House but that is not the worst of it. The worst of it is his suggestion that somehow this Bill seeks to displace the ruling of the Court to the detriment of one of the parties to the litigation. That is absolute nonsense, Mr Speaker. For a start the party to that litigation is not paying the increased fees. Secondly, what the Court is interpreting at the suit of the other party to the litigation is the Government's right to have attempted to impose the new fees, which they are not paying because there is an injunction under the old Regulations. Mr Speaker, the Court can continue to discuss whether the Government were entitled under the old Regulations to levy the fees but that is not a good reason why there should not be new Regulations, new legislation which is not open even to the same challenge. This Bill in no way affects the rights of the parties under the litigation in the litigation but the suggestion that the hon Member makes that somehow we should let the Court decide whether the Government should impose an Upper Rock entry fee or not is absolutely nonsensical. What the Court is allowed to do is to decide whether under the law as it currently stands, the Government have the power to charge to enter the Upper Rock. The Court is entitled to interpret the law and decide whether

Government's actions falls within it or without it, that is the function of the Court, but the idea implicit in the hon Member's comment that we abrogate the decision making policy right as to whether there should be an increase in Upper Rock entry fees to the Courts and take it out of the floor of this House, I really do not understand. Sometimes, I believe that the hon Member's desire to find some basis to raise issue with what is after all one of the shortest Bills we have ever taken in this House, all it does is it seeks to give a Minister in the Government the right and the power to decide what the entry fee should be into the Upper Rock Nature Reserve, that is all. If this clause were in a thirty-page Bill, it would probably not have attracted his attention at all. It is a perfectly standard provision, included in most legislation where the fee-raising power is given to the Minister. I do not know whether it is in order to generate debate, the hon Member has made some of the observations that he has made.

Mr Speaker, just to satisfy the hon Member's curiosity and to give him the clarification that he has sought, the Nature Conservancy Council has not been consulted on any content of this Bill. This Bill seeks to give a new basis in primary legislation for the powers that Ministers have exercised since 1993. This is not new. The hon Member also asked for clarification of how had we made stick the increases that had been introduced? The increases are presently being paid by everybody except the Cable Car operator and that is because they have obtained an injunction. That matter comes soon before the Courts and as I indicated to the hon Members it would be inappropriate to go into the details of the case or to comment upon it except to say, as I said earlier, that the Government intend to vigorously pursue the matter and defend the matter in the Courts. This is not a matter upon which the Government will yield unless and until it has a judgement of a Court against it beyond which the Government may decide not to appeal, but as to how it has been done in respect of the others, the position is quite simple. It has been done under the very same provisions that the fees were levied in the first place for the Upper Rock entry, in other words, the existing provisions.

In summary and in an attempt to clarify the matters that the hon Member sought clarification of, firstly there is no change in the way that this revenue is treated except that it is now passed through the Consolidated Fund as opposed to being shunted into the Gibraltar Information Bureau Limited so that now the hon Member has the ability to influence how it is spent. Secondly, the consultation with the Nature Conservancy Council does not apply because that only applies to His Excellency's exercise of his powers under the existing Regulation to raise fees under that and we are introducing now a new Regulation which does not contain that requirement for consultation.

Finally, Mr Speaker, the powers contained in this Bill are of a standard and typical nature. The Government do not raise general revenue for specific purposes. Here is a general power for the Minister to raise fees for entry into the Nature Conservation Area for the benefit of the Government and if it is the position of the Opposition Members that those fees should only be raised on condition that they are spent on matters of nature conservation then that is not the view of the Government given that there is much more general expenditure related to the Upper Rock and things of that sort which do not necessarily fall within what would then have to be the definition of nature conservation.

Question put. The House voted.

For the Ayes:	The Hon K Azopardi
	The Hon Lt-Col E M Britto
	The Hon P R Caruana
	The Hon H Corby
	The Hon Mrs Y Del Agua
	The Hon J J Holliday
	The Hon Dr B A Linares
	The Hon J J Netto
	The Hon R R Rhoda
	The Hon T J Bristow

For the Noes:           The Hon J L Baldachino  
                              The Hon J J Bossano  
                              The Hon Dr J J Garcia  
                              The Hon S E Linares  
                              The Hon Miss M I Montegriffo  
                              The Hon J C Perez  
                              The Hon Dr R G Valarino

The Bill was read a second time.

HON CHIEF MINISTER:

I beg to give notice that the Committee Stage and Third Reading of the Bill be taken today.

Question put. Agreed to.

#### COMMITTEE STAGE

HON ATTORNEY GENERAL:

I have the honour to move that the House should resolve itself into Committee to consider the following Bills clause by clause:

- (1)     The Nature Protection (Amendment) Bill 2001.
- (2)     The Employment Ordinance (Amendment) Bill 2001.

#### **THE NATURE PROTECTION (AMENDMENT) ORDINANCE 2001.**

Clause 1 was agreed to and stood part of the Bill.

#### Clause 2

HON CHIEF MINISTER:

Mr Chairman, there is the matter of the amendment in section 24A to substitute the reference to "Tourism" and replace it with the words "the Environment", so that it should read "The Minister with responsibility for the Environment", as opposed to "for Tourism".

Question put. The House voted.

For the Ayes:           The Hon K Azopardi  
                              The Hon Lt-Col E M Britto  
                              The Hon P R Caruana  
                              The Hon H Corby  
                              The Hon Mrs Y Del Agua  
                              The Hon J J Holliday  
                              The Hon Dr B A Linares  
                              The Hon J J Netto  
                              The Hon R R Rhoda  
                              The Hon T J Bristow

For the Noes:           The Hon J L Baldachino  
                              The Hon J J Bossano  
                              The Hon Dr J J Garcia  
                              The Hon S E Linares  
                              The Hon Miss M I Montegriffo  
                              The Hon J C Perez  
                              The Hon Dr R G Valarino

Clause 2, as amended, stood part of the Bill.

The Long Title stood part of the Bill.

## THE EMPLOYMENT ORDINANCE (AMENDMENT) BILL 2001

Clause 1 was agreed to and stood part of the Bill.

### Clause 2

HON CHIEF MINISTER:

The Leader of the Opposition in relation to sub-paragraph (3) of section 52Q, commented that the way the legislation is done suggested to him that we were reserving to ourselves the power to override Community legislation. Then, in respect of the last five words of that sub-section "wholly or partly outside Gibraltar", he asked whether that meant that we were not limiting the application of this provision to the Community. The answer is that both points are related. The drafting of this section has followed the drafting of the equivalent section in the UK. There are three items in respect of which there will not be discrimination in respect of which employers will not be allowed to discriminate on the grounds of partial non-residents in Gibraltar. One is the entitlement of the person to remain a member of the scheme. If one works partly in Gibraltar and partly outside Gibraltar the employer cannot use the fact that one has worked partly outside Gibraltar to disqualify one from a pension. Secondly, the eligibility of any person to remain a person by or in respect of which contributions are made under the scheme. The employer cannot say that because the employee works partly in Gibraltar, he is not going to make the employer's contribution under the Scheme. The third area of non-discrimination that this sub section deals with the making by or in respect of any person who is a member of the scheme of any contribution towards or under the scheme, in other words that the employer cannot say "because you partly worked outside Gibraltar, I am not going to let you the employee contribute to my Pension Scheme". The policy decision has obviously been taken in the UK that that discrimination should not be allowed for anybody, if one has somebody who works in Gibraltar and who works partly outside of the Community that they should not be discriminated against either and that is reflected in the words "wholly or partly outside Gibraltar" without qualifying it

to within the EU. In other words outside Gibraltar makes it wholly or partly in another Member State which takes me back to the first words as to why it is sensible to put the words "except so far as Regulations otherwise provide" because in respect of non Community work places one can make regulations to modify the statement to regulate. So whereas there is one set of non-discrimination in the principal legislation, they can be made subject to regulations but only in so far as they apply to people working outside Gibraltar and outside of the Community, in some non-Community country. The provision is, of course, subject to the general principle of law and indeed of Treaty obligation applicable not just to Gibraltar but also to the United Kingdom. In the United Kingdom Community law obligations cannot be overridden by domestic legislating making powers. That is the explanation for that. Obviously if the subsection were drafted so that it only applied to people partly working in the Community then the inclusion of the words "except so far as regulations otherwise provide" would be unnecessary and inappropriate and improper. They are rendered appropriate only because of the words "outside Gibraltar" at the very end which then does allow the legal freedom under Community law to make regulations that apply to people outside Gibraltar but not inside the Community.

HON J J BOSSANO:

Mr Chairman, can I ask if the UK law makes the same provision that it says subject to regulations? Presumably, given that this is a policy decision taken by the UK Government which goes beyond a Community obligation, the Government of Gibraltar are free to take a similar or a different policy decision.

HON CHIEF MINISTER:

Indeed, all of this wording appears in the United Kingdom legislation. The Gibraltar Government and this House are free therefore to legislate in different terms, to restrict it to Community single rights but, frankly, and I have to admit that no one invited us to make that policy decision, this explanation that I have just given the hon Member is based on information and analysis that

has been provided to me as a result of my making the enquiry to answer him, that no draftsman invited us to say "hang on, do you want to do this or not?". Having addressed our minds to it now, I do not believe that there is any necessity or justification to allow employers to discriminate against people who work in Gibraltar but who, as part of those duties, also work elsewhere. Although the Government have the policy freedom that the hon Member describes, we are not minded to exercise it but if we are going to give this under EU directive that it is going to be given to Community workers, it might as well also be given to everybody and I cannot say how many people will be affected by this and how many people work partly in Gibraltar and partly elsewhere and that that elsewhere is not a Community country. I would imagine that there are very few of those and probably not a big issue one way or the other.

HON J J BOSSANO:

It seems to me that in terms of the freedom we give people who establish themselves in Gibraltar, particularly multi-national companies, my understanding is that in fact what the law says is that in the absence of this law a company could enter into certain pension arrangements for the time that people worked in Gibraltar and have different arrangements for the time they were outside Gibraltar. For example, if we have US or Japanese companies they might have a package for their employees which had different elements in it for the work they did outside Gibraltar. I see nothing wrong with giving companies the freedom to do that. I can understand that the EU dimension is because what the EU is trying to do is create a single labour market where people will have virtually eventually the same taxes, the same wages and the same rights and the same pensions throughout the EU as they would have now within one nation state. That is the whole ethos of the European Union, moving into a completely integrated labour market where one can move from any corner, from Finland to Gibraltar and can have the same terms of employment. By extending it to non-EU territories it seems to me that we are depriving an international company of being able to say that if they have somebody that works, say, six months in the United

States and six months in Gibraltar, they would have one package in Gibraltar and one package in the States. Given that that is the level upon which it would operate, why should they not have that choice?

HON CHIEF MINISTER:

Mr Chairman, first of all I do not believe that that is the effect of this legislation as I will explain to the hon Member in just a moment. Secondly, all we are concerned here with is discrimination. Discrimination imports imposition. It says that "provisions of an occupational pension scheme contravenes this subsection to the extent that they would have an effect with respect to the entitlement of a person to remain a member of the scheme". The situation that the hon Member is describing would be one in which the..... it does not have to be brought around by means of disentitling, it would just be part of a package which would be offered and the question of the employer to say "...but look, if you prefer to participate in the Gibraltar scheme only, you are free to do so". What there cannot be is compulsion on the employee to be excluded from the Gibraltar scheme on the pretext that he performs part of his duties outside of Gibraltar. If the hon Member looks down the three there is that element of compulsion, the eligibility of any person to remain a member of the scheme, that he cannot be sacked from the scheme. One can imagine somebody who does 90 per cent of his time working in Gibraltar, 10 per cent working in some other country and the employer says "you are not entitled to be a member of my Gibraltar company pension scheme because you work 10 per cent of your time in Morocco", or in the United Kingdom. That is what this prevents. I do not believe that this regulation has the effect of preventing employers in such circumstances making pension provisions of a split nature, the sort that the hon Member has described, and with which the employee is content. But, if it did have that effect and cases of it were brought to our attention, we would certainly exercise the regulation-making power because I accept it is a fundamental point that the hon Member was making, that it would be undesirable to curtail the ability of to multi-nationals to bring such people to Gibraltar.



Clause 2 was agreed to and stood part of the Bill.

The Long Title was agreed to and stood part of the Bill.

### THIRD READING

#### HON ATTORNEY GENERAL:

I have the honour to report that the Nature Protection (Amendment) Bill 2001 and the Employment Ordinance (Amendment) Bill 2001 have been considered in Committee and agreed to with amendments.

I now move that the Nature Protection (Amendment) Bill 2001 be read a third time and passed.

Question put. The House voted:

For the Ayes:           The Hon K Azopardi  
                          The Hon Lt-Col E M Britto  
                          The Hon P R Caruana  
                          The Hon H Corby  
                          The Hon Mrs Y Del Agua  
                          The Hon J J Holliday  
                          The Hon Dr B A Linares  
                          The Hon J J Netto  
                          The Hon R R Rhoda  
                          The Hon T J Bristow

For the Noes:           The Hon J L Baldachino  
                          The Hon J J Bossano  
                          The Hon Dr J J Garcia  
                          The Hon S E Linares  
                          The Hon Miss M I Montegriffo  
                          The Hon J C Perez  
                          The Hon Dr R G Valarino

The Bill was read a third time and passed.

### ADJOURNMENT

#### HON CHIEF MINISTER:

Mr Speaker, earlier this week I indicated for the benefit of the Members of the House, that it was my intention today to move the adjournment sine die. Unfortunately, in the meantime, it has come to my attention that a piece of legislation which we wish to promulgate and which had been intended to be done by subsidiary legislation may not be possible to do it by subsidiary legislation, in which case we would not wish to be without the opportunity to do it by primary legislation until the next meeting. I apologise to any hon Member that has made any arrangement on the basis of the statement that I made but it is unavoidable. I therefore move the adjournment of the House to Monday 23<sup>rd</sup> July 2001 at 10:00am. If there is some Opposition Member who has, in the last three days, made his summer holidays in respect of this day, I am sure we can come into pairing arrangements to facilitate their absence. So, therefore, Mr Speaker, I move the adjournment to Monday 23<sup>rd</sup> July at 10 o'clock in the morning.

#### HON J J BOSSANO:

Can we make sure that if we need to come back on the 23<sup>rd</sup> we get the Bill, in this particular case the Nature Protection Ordinance, although it was published on the 28<sup>th</sup>, we actually got it the day after it was mentioned in the House. I think obviously if the Bill is going to be published I think we need to find a way of making sure that when it is published somehow it gets to us so that we have the seven days.

#### HON CHIEF MINISTER:

Yes, not a new problem, of course, a long-standing problem that I can well remember from my days in Opposition. But, of course, being amenable as we are to facilitate and indeed to encourage the work of this House and the important role that the Opposition plays in it, then I entirely agree that if the hon Members feel that their work is being curtailed by postal delays and things of that

sort, I have no doubt that if they made the necessary approach to the Clerk, who I understand is the person who discharges the function of distributing Bills, then....

MR SPEAKER:

No

HON CHIEF MINISTER:

I thought that is what Standing Orders say.

MR SPEAKER:

It is No.6 Convent Place.

HON CHIEF MINISTER:

Certainly we will make sure that the Bill is delivered to the Clerk on the day in which it goes to the printer or at least on the day in which it is published in the Gazette. That said, where legislation is published earlier, the Government are quite happy to circulate to the hon Members. Very often it does not come out until the Thursday because that is the day on which the Gazette is printed, but it might be ready from the Monday. We have no difficulty with circulating legislation to the hon Members as soon as it is available in print on the understanding that they make no public use of it until it is published in the Gazette. What we shall do, Mr Speaker, is that we shall be sure that the Clerk has, certainly by no later than the date of publication of the Gazette, a copy of the Bill and encourage him to use the most rapid form to get it to Opposition Members.

Mr Speaker, if it should transpire that we do not need to have recourse to this House for that legislation, it might then be possible for us to agree to a limited quorum or a minimum quorum to attend in the House to bring about this legislation unless the hon Members all want to come just for that purpose, but there is no other business other than this possible bill.

HON J J BOSSANO:

I think the practice has been for four Members to come if I remember correctly from past experience.

Question put. The House voted.

The adjournment of the House was taken at 11:45am on Thursday 5<sup>th</sup> July 2001.

### MONDAY 23<sup>RD</sup> JULY 2001

The House resumed at 10.00am

PRESENT:

Mr Speaker..... (In the Chair)

(The Hon Judge J E Alcantara CBE)

GOVERNMENT:

The Hon P R Caruana - Chief Minister  
The Hon K Azopardi - Minister for Trade, Industry and Telecommunications  
The Hon J J Holliday - Minister for Tourism and Transport  
The Hon Lt-Col E M Britto OBE ED - Minister for Public Services, the Environment, Sport and Youth  
The Hon H A Corby - Minister for Employment and Consumer Affairs  
The Hon J J Netto - Minister for Housing  
The Hon Mrs Y Del Agua - Minister for Social Affairs  
The Hon R Rhoda QC – Attorney General  
The Hon E G Montado OBE - Financial and Development Secretary (Ag)

OPPOSITION:

The Hon J J Bossano - Leader of the Opposition  
The Hon Dr J J Garcia  
The Hon J L Baldachino  
The Hon Miss M I Montegriffo  
The Hon Dr R G Valarino  
The Hon J C Perez  
The Hon S E Linares

ABSENT:

The Hon Dr B A Linares - Minister for Education, Training, Culture  
and Health

IN ATTENDANCE:

D J Reyes Esq ED - Clerk of the House of Assembly

DOCUMENTS LAID

The Hon the Chief Minister moved under Standing Order 7(3) to suspend Standing Order 7(1) in order to proceed with the laying of documents on the Table.

Question put. Agreed to.

The Hon the Chief Minister laid on the Table the following documents:

- (1) A copy of the covering letter to the Chairman of the Committee of 24 regarding the motion passed unanimously in the House on the 5<sup>th</sup> July 2001.
- (2) The Report and Audited Financial Statements of Gibraltar Community Projects Limited for the year ended 31<sup>st</sup> March 2000.

Ordered to lie.

The Hon the Financial and Development Secretary laid on the Table the Statements of Consolidated Fund Reallocations approved by the Financial and Development Secretary (Nos. 14, 15 and 16 of 2000/2001).

Ordered to lie.

BILLS

FIRST AND SECOND READINGS

HON CHIEF MINISTER:

I beg to move under Standing Order 7(3) to suspend Standing Order 7(1) in order to proceed with the First and Second Reading of Bills.

Question put. Agreed to.

**THE LEISURE AREAS (LICENSING) ORDINANCE 2001.**

HON CHIEF MINISTER:

I have the honour to move that a Bill for an Ordinance to make special provision for the licensing and regulation of places of public entertainment, places where food, drink or intoxicating liquor are sold or consumed, and for matters connected thereto, in certain areas of Gibraltar, be read a first time.

Question put. Agreed to.

SECOND READING

HON CHIEF MINISTER:

I have the honour to move that the Bill be now read a second time. Mr Speaker, hon Members will be aware that the Government's Casemates Square project is now complete. I understand that the last restaurant is opening later this week or

next and that that completes the entertainment package. Hon Members will also be aware that it is Government policy to create in Gibraltar facilities for leisure, not just for our youth, but for the population at large. Although one must acknowledge that the earlier into the morning it gets the more likely it is that it is for our youth that we will be providing, it should not be necessary, and I say the word necessary specifically and advisedly because there comes a time of the night where licensed establishments in Gibraltar close under the present licensing hours regime. Government are seeking to balance on the one hand the extended entertainment facilities for the people of Gibraltar with the special problems that arise in a small built-up community like Gibraltar where almost every area is a residential area and where there are people who live and therefore sleep at night who have an equally legitimate right to have their wish to live in peace and quiet, at least in the silent hours but preferably also during the daytime hours as well, also catered for. Therefore, the Government's policy, enabled by this Bill, is to seek to balance both those, at first sight, competing aspirations although the Government actually believe that they are not as competing as those that sometimes comment publicly on this issue think. That said, the Government have already made it clear that we are talking of experimental and pilot schemes, that this is breaking new ground for Gibraltar, that Gibraltar adds complications compared to perhaps doing this in a country with more expansive areas where it would be easier to find more appropriate zones.

This Bill is on a pilot scheme and the experiment and the pilot scheme are initially intended to be limited to Casemates Square and also the two marinas, Marina Bay and Queensway Quay which are already established leisure zones. Although the Government's principal policy was geared at the Casemates Square project it was thought by the Government to be unfair to deprive two areas which were already, indeed one could argue long before Casemates was established, as leisure areas, the two waterfronts and the two marinas, it would be unfair given not that they were areas in which there was already one restaurant or one bar, but rather they were already leisure zones in their own right. One hears all sorts of public comments, some more informed than

others and others more enlightened than others. I heard one commentator ask "how do the Government intend to force the marinas to have late hours?". It is a complete misconception of what the Government are intending to do in this Bill. This Bill is not about compulsory opening hours, it is about the possibility of extended opening hours and therefore it is up to the individual landlords to decide and indeed their individual tenants to decide whether in the marinas they wish to take advantage of this new licensing regime. Indeed, it may well be the fact that these restaurants and the two marinas may be held on leases, which gives the landlord the power to prevent extended hours. The law is not involved with obliging businesses to stay open but rather to create a legislative framework in which it is possible to permit the staying open by those establishments who want to and who are able to. Mr Speaker, as it is intended as a pilot and experimental scheme in which the Government need to get the right balance between the two objectives that I described at the beginning, the legislation creates a flexible licensing arrangement with powers to ensure that the proper balance is struck even if we do not get the right balance at the beginning. This is a question of the Government adjusting the provisions that people in these areas are allowed to benefit from but to adjust them from time to time depending on whether the balance between the leisure requirements of Gibraltar and the legitimate peace and quiet expectations of the immediate neighbours are being met and therefore the Government need flexibility in order to be able to very quickly adjust the balance if we should find that we do not in the first instance get it right.

The principle of the Bill, is based on the creation of certain areas of Gibraltar which will be designated leisure areas. The Bill, in section 2, the Interpretation and Definition section, defines a discotheque. It defines also entertainment. I believe that that definition is drawn from and follows the existing definition in the Entertainment Ordinance. The Bill also defines, because the regime will also apply to it, the concept of the external area, that is to say, an area outside the leased internal premises, the outside area which is held on license for the purposes of placing tables, chairs and things of that sort or just the operation of a terrace in

connection with the premises. The leisure areas are areas that would be designated by me as the Minister to whom this legislation gives the power and the Licensing Authority is the Chief Secretary of the Gibraltar Government or such other person or entity as may be prescribed.

Mr Speaker, until now the Licensing Authority in Gibraltar, at least in so far as matters of the sale of alcoholic beverages and entertainment is concerned, has been the Magistrates' Court. The fact that there should be entertainment in Gibraltar and that there should be an area or areas of Gibraltar in which there is a more liberal licensing regime is a matter of policy. The Government policy is that this facility for leisure should be available in Gibraltar. It needs to be delivered in a way that the Government can ensure meets the two objectives that I described earlier and therefore it would be inappropriate, in the Government's assessment, to allow these decisions to remain in the Magistrates' Court. The legislation applies to what it terms a relevant establishment. A relevant establishment is any bar, restaurant, cafeteria or establishment of that sort, located within a leisure area or a discotheque wherever in Gibraltar it may be located. That is what the regime created by this legislation will apply to. Of course, given that the whole purpose of this Bill is to create a special regime, different to that which, at least for the time being, applies to the remainder of establishments of such kind in Gibraltar, and given that the delivery of this policy necessarily involves the tolerance of behaviour which may in the past have been used to prevent leisure facilities in Gibraltar from being established, the first thing that the Government have to do in this Bill is to disapply from these special areas the sort of statutory provisions that presently exist which curtail the very objective that the Government wishes to deliver. Hon Members will see that in section 4 it says that the legislation listed in that same section ".....does not apply to any establishment which is licensed under this Bill". So, for example, sections 272 and 273 of the Criminal Offences Ordinance which relate to the playing of musical instruments after certain times of the night, section 7 of the Licensing and Fees Ordinance which deals with the licensing of the manufacture or sale of intoxicating liquor, the Entertainment

Ordinance except in so far as it relates to cinematograph entertainment, section 250 of the Public Health Ordinance which deals with placing of tables and chairs on the streets, section 96 of the Public Health Ordinance dealing with noise and vibration, section 97 of the Public Health Ordinance dealing with restrictions on the operation on the public highway of loudspeakers and so on and so forth. All that is disappplied but it is not disappplied in order to leave a vacuum. It is not disappplied in order to or with the effect of allowing a free-for-all. What it does is it gets replaced by separate and quite stringent licensing regimes provided for in this Bill.

Moving now to Part III of the Bill, section 5 deals with the licensing of entertainment in relevant establishments and it creates the need to apply for a licence and to give in ones application the sort of information that is necessary to enable the Licensing Authority to see to what extent the premises are suitable to be given what degree of latitude when it comes to entertainment that generates noise. For example, if one has to explain the nature of the entertainment or the entertainment event, the steps proposed to be taken to minimise the noise outside the premises resulting from such entertainment, the nature and extent of the sound insulation, air conditioning and ventilation systems available in the premises, such other matters as the Licensing Authority may from time to time require. When it comes to giving a licence to have entertainment which for these purposes most frequently means playing music, recorded or live, the Licensing Authority may as well as granting or refusing the application, attach conditions to the licence if granted which will include things like the times of the day and night during which the entertainment may be provided, the maximum permissible levels of externally audible noise generated by the entertainment, conditions relating to the extent and nature of sound proofing installation that must be available in the relevant establishment and indeed to the manner in which the premises will have to be operated to ensure that that sound proofing is effective in public. Things that one has in mind there are that the windows should be properly glazed, that the doors should be double doors so that when every time somebody opens the front door of the establishment to get in or out there is not a

blast of noise getting outside. All these are well established principles of how one sound insulates an entertainment establishment and all we need to do in Gibraltar is not to rediscover America or reinvent sliced bread but simply apply properly and well-established techniques that have already been devised in other areas. Then, in order to ensure that the Government are able to adjust the license if the balance is not got right in the first place, there are provisions to allow the Licensing Authority to modify or adjust the licence at any stage. There is a grandfathering provision which means that people that currently enjoy entertainment licenses will not, in the first year, have to re-apply for them. Their existing licenses will remain valid and those licenses will be deemed to be modified by the new provisions that will be recorded in the Gazette, for example, if the Government decide to allow unlicensed hours, that will be published in the Gazette and all existing Entertainment Licenses will be deemed to have been amended to that effect. Part IV deals with the regulation and licensing of the sale of food, drink and intoxicating liquor and also the placement of tables and chairs and parasols and the like on external areas. Again, it creates a licensing regime for that with the same requirement to give information which will enable the Licensing Authority to decide whether the particular premises are suitable for any more liberalised licensing regime, again containing the same grandfathering clause and again giving the Licensing Authority, section 12, the power to impose conditions to ensure that the balance between the two objectives that the Government wish to strike is able to be struck. Section 13 empowers the Licensing Authority to license, either for any particular number of hours, from such and such a time to such and such a time, or even on an all-hours basis, with no restriction whatsoever as to opening and closing times. Part V deals mainly with administrative provisions. Perhaps quite important is section 20 in that Part which deals with the effect of the licence not being valid. It is important to appreciate that the principle upon which this Bill is drawn is not to repeal the existing legislation. This creates a licensing regime for facilities over and above the existing legislation. Section 20 provides that if for any reason the new licensing regime created by this Bill ceases to apply to any establishment covered by it, because they surrender

the licence or it gets revoked or expires, whatever the circumstances, the moment an establishment ceases to be able to enjoy the more liberal regime that would be created under this legislation, the old law, the law existing today, automatically re-applies to them. It is not that they get left in limbo without a legislative regime or a licensing regime. The existing licensing regime is suspended whilst they enjoy a licence under this Ordinance. The moment they cease to enjoy a licence under this Ordinance for whatever reason, they are immediately covered once again by the provisions of all the existing laws which are being disapplied to them under section 4 of this Bill but only whilst they are licensed under this Bill. Another important provision of the Bill is at section 26 which provides that provided an establishment, and this is a very important proviso, provided an establishment is honouring and complying with the terms of the licence under this Bill, they will have available to them a statutory defence to any criminal action or civil action based on nuisance.

Mr Speaker, the Bill, in conclusion therefore, is intended to bring under one statutory umbrella, all the current licenseable activity requirements which places of leisure and entertainment of this sort currently have to comply with. That is why the Bill disapplies all that list of things to deal with such different issues as entertainment, alcohol licensing, tables and chairs, things of that sort. All of that is now covered under this area so if one has an entertainment establishment within an entertainment or a leisure area, one is covered by one regime under one Ordinance for all the activities that one may wish to engage in. I commend the Bill to the House.

Discussion invited on the general principles and merits of the Bill.

HON DR J J GARCIA:

Mr Speaker, it is clear from what the Chief Minister has been telling the House this morning that he has not been to a discotheque in Gibraltar for a very long time, as perhaps the people who drafted this. Certainly, the idea that youths only go to Spain because of the question of opening hours is a

misconception. This is an absolute law, written in absolute terms which reflects and which will be administered as absolute Government. The Opposition, while understanding what it is that the Bill sets out to do, do not agree with the manner in which the Government have chosen to go about it. This is one of those incredible laws, I think it is the second one, which allows the Chief Minister of Gibraltar to designate special zones with special rules and conditions which apply there that do not apply anywhere else. The Government have chosen to concentrate on the question of the changing of hours and that is only one aspect covered by this Bill which actually does much more. In August in a consultation paper published by the Government they announced their intention to review the question of licensing and a whole range of other matters. The objective of the Government then as announced in August and as per their own Consultation Paper which was issued in November was as follows: Many of Gibraltar's laws in the area of licensing, sale of alcohol to minors, opening hours, the regulation of leisure establishments, are old and no longer reflects the circumstances of a modern Gibraltar or effectively serve the needs of our economy and our society. Yet, some of the areas which the Bill touches upon were scarcely worth a mention in the Consultation Paper. Other areas which the Consultation Paper goes into at length are not even mentioned in the actual Bill itself. The Opposition would welcome an explanation as to why that is the case although we understand that there will be a further in-depth review which has been promised in the autumn.

In terms of the general principles of the Bill, the Opposition considers that the Chief Secretary and the Chief Minister of Gibraltar have better things to do than involve themselves in the licensing hours of restaurants, the type of tables and chairs that they choose to place on pavements, the colour of parasols that they choose for their establishments and the amount of noise or entertainment that the establishments choose to have. This Bill seeks to regulate these matters with an iron fist and in a heavy-handed way, in a manner which introduces a political dimension to something like basic town planning which really there is no need for. Section 2 of the Bill designates the Chief Secretary of

Gibraltar as the Licensing Authority. It seems very odd to the Opposition that these matters which are to do with trade or to do with town planning and which properly belong in the Department of Trade and Industry should suddenly become the domain of No.6 Convent Place. Indeed, recently there was a much publicised court case to which the Chief Minister has already referred, dealing with an establishment in Casemates where an extension of hours was refused by the Magistrates' Court. It is not the role of the Opposition to say whether this was right or wrong or to pronounce a view on it. What we can certainly say and what this Bill does is to take that power away from the Justices of the Peace, to take power away from the Magistrates' Court and to entrench it instead at the heart of the political establishment of Gibraltar in the office of the Chief Minister at No.6 Convent Place. That, Mr Speaker, we feel cannot be right. The GLVA which represents bars and restaurants in Gibraltar has already issued a public statement describing this law as unfair and ill thought. They also chose to highlight the lack of consultation with them which has existed in this matter. It seems very strange to the Opposition that a body which specifically represents bars and restaurants in Gibraltar should have been marginalised in the way in which they claim. I will, with your indulgence Mr Speaker, read out what it was that they said: "The Chief Minister called Casemates victuallers to a meeting last week to inform them of his so-called 'zoning' decision. The GLVA has been ignored despite the promise given by the Deputy Chief Minister that before any announcements were made the GLVA would be informed."

Mr Speaker, the Federation of Small Businesses itself has also complained at the lack of consultation. Not surprisingly there are a number of areas in this field where the Opposition would welcome an explanation or clarification. Section 2 of the Bill defines the word "entertainment". Contrary to what the Chief Minister has just said the definition of entertainment given in this Bill is different to the definition given in the Entertainments Ordinance itself, they are not the same. If one looks at the Entertainments Ordinance, entertainment is defined as "public performance of stage plays, public cinematograph entertainment

or public dancing, singing, music or any other public entertainment of the like kind". This is a short and simple three-line definition. If one looks at the definition provided in the actual Bill itself it is a ten-line definition, much wider than the definition included in the Entertainments Ordinance contrary to what the Chief Minister has just told the House. Therefore, is it the case then, that the new definition contained in this Bill will apply to the designated areas in Casemates and the two Marinas or elsewhere? Or will the new one apply everywhere else? The Opposition would like to know whether items like, for example, a fair and individual fair rides which are mentioned in the Bill before the House today and which are not mentioned in the old Bill as requiring a licence will come under which of the two regimes?

Moving on now to section 5 of the Bill, this gives the Licensing Authority in Convent Place the power to attach conditions to a licence for entertainment. This includes, under sub-section (3)(b) of section 5 the regulating, restricting or specifying the manner in which entertainment may be provided. More than that, sub-section (5) gives the Chief Minister, by notice in the Gazette, to which he has already referred, the power to change existing licences by publishing this notice once the Bill is commenced or once the existing licenses run out. Although the Chief Minister has mentioned the purpose behind the introduction of that clause it certainly is not reflected anywhere in the Bill itself. The Opposition therefore consider because of this definition these powers to be potentially abusive and arbitrary. Section 8(1) of the Bill is even worse, it reads as follows: "It shall be lawful for the Licensing Authority whenever he is of opinion that it is fitting for the preservation of good manners, decorum or the public peace so to do, to forbid the public acting, presenting or holding of any entertainment in a relevant establishment, and either absolutely or for such time as he shall think fit". Mr Speaker, what may be good manners for one person may be bad manners for somebody else. What may be the decorum for one person may be the opposite to the next person. It is totally unacceptable that No.6 Convent Place can use this subjective terms as a pretext, and I quote "to forbid the public acting, presenting or holding of any entertainment in a relevant establishment". Amongst other things

this smacks of censorship of the arts and has the potential to lead to censorship of the arts and can therefore be seen as an affront to freedom of expression. These issues can be handled in other ways by the police or by the Courts or by other officials. It is not for No.6 Convent Place to determine what constitutes good manners and what constitutes the decorum. The ethos of absolute power and absolute control for the Chief Secretary and the Chief Minister to meddle in these matters is something which runs throughout the Bill and is something that the Opposition cannot support.

Mr Speaker, section 11(1)(b)(ii) of the Bill allows the Licensing Authority or Convent Place, and I shall read it out: ".....allowing the Licensing Authority at any time, and as often as he may consider appropriate, after issue, to vary any term or condition of the licence, to add new terms and conditions, or to rescind the licence". Mr Speaker, there is nothing in this Part which says that the Government, the Chief Secretary or the Licensing Authority have to act in a reasonable manner or to conduct themselves in a fair and reasonable way. The power is absolute and arbitrary. No reasons need to be given for the actions of the Government. There is no appeals mechanism in place where an aggrieved party can go and seek redress within this Bill. Section 12(1)(b)(ii) also on page 149 of the Bill again gives discretion to the Licensing Authority in terms and conditions that can be attached to the licences for placing tables, chairs and umbrellas. These discretionary powers relate to, and I shall read from the Bill ".....the quantity, nature, design or description of the furniture or article proposed to be the subject of a licence under section 10". They also allow in (iii) at the top of page 150 ".....the Licensing Authority at any time, and as often as he may consider appropriate, after issue, to vary any term or condition of the licence, to add new terms and conditions, or to rescind the licence". Mr Speaker, the same powers to change or amend existing licences once they are transferred also exist in this respect.

If we move on now to section 30 of the Bill, there is an area where the Opposition would certainly welcome some clarification. This



allows for the prosecution of any offence under the Ordinance to be commenced at any time within three years after the offence was committed. It is normal practice, so we understand, for summary offences which are regarded as being relatively minor that there is a six month provision within which prosecution or action can be taken against the person accused of having committed the offence. There is a reason for that and I will read out the practice in the United Kingdom, "summary offences are charged and tried as soon as reasonably possible after their alleged commission so that the recollection of witnesses may still be reasonably clear and so that there shall be no unnecessary delay in the disposal by Magistrates' Courts throughout the country of the summary offences brought before them to the trial". Essentially, because of the nature of the offence the idea is that people should be tried as quickly and as efficiently as possible whereas the Bill gives the Government or the Authority under the Ordinance three years within which proceedings can be commenced. That is an area we would welcome clarification.

Mr Speaker, section 32 of the Bill allows the Chief Minister to make regulations on a wide range of issues. This includes, under section 32(2)(c), the power to prescribe the maximum level of noise which may be emitted as a result of any entertainment event and the manner in which the apparatus with which such noise is to be measured and calculated. It seems very odd that for a Government that like to employ experts and consultants in many fields, they have not done so particularly in this specialised area. Instead of the Environmental Department or the Environmental Agency, it is the Chief Minister who will determine not just the maximum level of noise that events may be allowed but even the manner and the apparatus with which the noise is to be measured. It is a mystery to the Opposition how the Chief Minister has become an overnight expert in noise, planning and public entertainment. What has happened is that the specialised powers and functions of many Government Departments are being effectively reserved by this Bill from the Department and transferred to No.6 Convent Place and to be exercised then in an absolute manner. The Opposition are not the only ones who think this. We are not the only ones who are saying it. The Federation

of Small Businesses, in a statement issued on Friday, said about this Bill "Its implementation and control falls under the hands of two persons, namely the Chief Minister and the Chief Secretary. There are no provisions for appeal or complaints and the Chief Minister is given powers to prescribe anything that he considers necessary or expedient and the Chief Secretary can modify, withdraw and restrict licences at his total discretion. We do not believe that these changes are democratic in their content." The message from the traders and the traders' organisations is that in his overriding eagerness to make a success of Casemates the Chief Minister should take care that he does not end up making a mess everywhere else. This Bill, in its provisions and clauses which we have outlined, restricts freedom and democracy. It is discriminatory and encourages absolute rule by laying down the legislative framework based on discretion at the whim of an individual on which there is no restriction, against which there is no protection and above which there is no appeal. Mr Speaker, the Opposition will be voting against the Bill.

HON CHIEF MINISTER:

Mr Speaker, at least we have not had to suffer the considerable amusement of having any member of the GSLP stand up in this House offering themselves as the champions of businessmen and the protection of businesses against allegedly discriminatory executive or administrative acts. But still, taking the remarks made by the Hon Dr Garcia on behalf, presumably of himself and all his Colleagues that sit next to him, I would say this, the problem as I see it with the style that Opposition Members have is that they hitch their opportunistic policies to every bandwagon being driven by a discontented sector in the community. They run the real risk of overlooking the fact, firstly of how the majority in our community feel about this and, secondly, as they have clearly done in this instance of mistaking the party for whose benefit these things are done. Whatever the Government do, and I accept that the Hon Dr Garcia has no direct experience of this, but the hon Member sitting next to him, the Leader of the Opposition certainly has experience of the fact that whatever one does in Gibraltar to make progress, to improve things, to deliver

what a majority of the community want, one ends up crossing the bows of usually some minority but usually much more vociferous than the majority who feel that they are not happy with it. The role of Government is not to desist from doing everything for which there is no unanimous support but to try and pursue the legitimate interests of the majority whilst at the same time and to the greatest possible extent satisfy the legitimate interests and wishes of the minority. The hon Member said that it is clear that it is some years since I have not been to a discotheque. I realise that that is true. I also appreciate that given his age it is not true of him. It is certainly true that it is some years since I last went to a discotheque and when I used to go to discotheques, as far as I can recall, we used to come home more or less at the time that people go to discotheques nowadays. I seem to remember returning home at about the sort of time that my daughter now goes out to the discotheques so that gives him some indication of the sociological changes with which we are trying to grapple. It is also true and we were blessed, I suppose one can call it in those days, with many more discotheques in Gibraltar than there are now. I have never been to a discotheque with an external patio arrangement, not here, not up in the Costa del Sol when occasionally as I know he frequently does, we used to stretch our legs as far as Marbella for the night life, this notion of a discotheque with an outside area for tables and chairs, I came across here for the first time. The hon Member is not right in attributing to a misconception on our part that we are doing all this because we believe that young people, discotheque goers, let us call them that, that they only go to Spain because of the opening hours. Mr Speaker, I earnestly would like to say to the hon Member that if he spent less time being wound up by the two or three people whose views he has reflected in this House today, and more time speaking to parent organisations and to youth organisations, the constant theme that the Government get is that there is not enough things in Gibraltar for our youth to do as a result of which they get "forced" to go to Spain even for the most basic leisure activity and if most basic means that at one o'clock just after one has left ones house usually, they go and have a drink and the whole night in Gibraltar finishes at the time when they are just getting going. As it is not reasonable to expect

youngsters to go home in those circumstances they all go elsewhere. The Government have no objection to people going elsewhere. If people want to carry on going elsewhere it is a free country and this Bill is not about preventing people from going elsewhere. It is about giving people a service, a facility in Gibraltar so that at least they have the option of deciding whether they go elsewhere or stay here. It is in accordance and in consonance with every single representation that is made to Government that the closing hours of our bars, et cetera drive our youngsters, especially on Friday and Saturday nights, across the border in their hundreds at a time of the night when it is perfectly feasible for us to provide them with leisure entertainment here so that they do not have to get their cars and their motor bikes and then expose themselves to the additional danger that having to come back home in cars and motor bikes after a long and enjoyable night out represents. That is not to say that people will not carry on doing that, and good for them but there is a difference between people doing that, notwithstanding what they have here, and people having to do that because there is no alternative. A lot of people will continue to go to Spain, equally a lot of people who presently feel they need to go to Spain will now feel that they do not have the need because their needs, not everyone is an insomniac and stays up until eight o'clock in the morning, other people are quite happy just to stay up until three or four in the morning, they are provided for now. I think the hon Member will find that there will be people in both categories. The people who presently go and will continue to go and the people who presently go who will no longer feel the need to and will not.

It also has to be borne in mind by the hon Member that this Bill is not about businesses. Casemates Square and this piece of legislation is not for the benefit of the owners of the bars. It is not a business support measure. It is not for the benefit of the members of the Federation of Small Businesses. It is not for the benefit of the members of the Gibraltar Licensed Victuallers' Association. It is for the benefit of the people and community of Gibraltar as leisure-goers. Government have done everything that they can consistently with delivering their policy objective and consistent with their policy of not imposing in excessively built-up

areas a more liberal noise regime. The Government have done all that they can to satisfy and to meet those aspirations of the trade that can be met. I am really astonished, I have been astonished by the fact that it was made by one of the gentlemen whose press release he has read, I am even more astonished that he should make the point himself. He says ".....what about the rest of the trade? What about the Consultation Paper in August?". This does not deal with any of that. But who says that this is about the Consultation Paper in August? This is about Casemates. Presumably the hon Member takes the trouble of reading the press releases of the Gibraltar Licensed Victuallers' Association, presumably he also takes the trouble to read the Government's press releases and if he had taken the same trouble to read the Government's press releases he will know that this is not the general review of licensing. That review goes much further than opening hours. That review deals with the whole issue of the age and the control of the sale of alcohol to youths and minors, the sale of tobacco to youths and minors, the opening hours of retail shops selling alcohol. It is a much wider review of all aspects of licensing in Gibraltar, nothing to do whether a bar in Casemates can stay open or not. This Bill is made for Casemates Square and the two marinas, it is made for Casemates Square and the discotheque which is what the Government wished to achieve this summer before the summer passed. The two marinas were added on advice because they were already effectively established leisure zones and should not on the first occasion that the Government do something describing leisure zones ought not to be not treated as leisure zones given that they are Gibraltar's only two existing leisure zones.

The hon Gentleman appears to think that the Government give themselves the right to divide Gibraltar into zones for the purposes of some jack booted, fascist objective. Most people in this community, given the hon Member's statement we cannot include him, understand what the Government are trying to do. Most people in this community understand what the Government are trying to do with the matuteras. I know that it is bad political news for the hon Member that the Government should be seen to

have been successfully dealing with the matuteras because it deprives him of the opportunity later on to criticise us for not doing something about the matuteras. I know that the hon Member does not want us to deliver a good quality leisure activity in Gibraltar so that then in the run up to the next Election he can criticise us for having abandoned the youth and not having done anything for the youth. I still remember the words of his Colleague the Hon Juan Carlos Perez lambasting the Government for having eliminated 20 parking spaces from Casemates, ".....what do the Government think it is doing, all in the name of cafes, to eliminate parking from Casemates?". I think what is required is a little bit of vision and if one wants to implement vision one cannot do it without making controversial decisions. Put more simply for the hon Member, one cannot make an omelette without breaking eggs and the Government's job is firstly to make sure that as few eggs as possible are broken and then that we have a method of dealing with this matter so that if eggs do inadvertently break, that the Government have the flexibility of licensing regime to adjust unintended, unenvisaged, consequences to ensure maximum fairness to everybody. Anyone would think that we have invented in Gibraltar the concept of zoning. I realise that the hon Member's political philosophy generally is based on the misconception that Gibraltar is the centre of the universe, not just for matters economic but for matters political and he expects the United Nations and the European Union and everybody to do what we want simply as a matter of God-given rights to us. But, the concept of zoning exists everywhere in the civilised world or does the hon Member believe that we should do nothing for anybody in Gibraltar because we cannot do it everywhere and for everybody in Gibraltar. In other words, because one cannot do it in the most built up area of Gibraltar because there is a bar on the corner then we should not do it for anybody even if there are areas which have less problem in housing such activities. A small place like Gibraltar, above all, needs zoning and the fact that there has not been zoning in the past is not a good reason not to start zoning in the present. If we do not zone then we shall fall behind in this leisure business. I remember how upset the hon Member got when one dolphin safari boat dared leave our shores to go and establish themselves

in La Linea. I do not see by applying the logic that appeared to drive them on that occasion, I do not see how he can now be so upset that the Government are doing something precisely to keep our youth or to give our youth the possibility, if they choose to take it, of entertaining themselves in Gibraltar. Therefore, there will be some time, hopefully we are aiming for the autumn, when a much wider review of licensing laws will be made. But it will not deal with his point. The more general licensing review is not necessarily going to deliver the same regime everywhere in Gibraltar regardless of the fact that some areas lend themselves better than others for certain types of activities. The hon Member says that the Chief Minister and the Chief Secretary have better things to do, well I do have very important things to do but I regard things that are fundamental to the quality of life in Gibraltar also very important. I devote my time properly as between Gibraltar's external affairs and Gibraltar's internal affairs. To me, ensuring the security of Gibraltar's external interests is side by side with ensuring that Gibraltar develops into a modern, prosperous community with the highest possible quality of life and standards of living for the ordinary residents of Gibraltar and I very much regret that the hon Member does not appear to attach the same degree of importance to that as I do. Establishing this new regime, which breaks ground with everything that we have had in the past is a sensitive area, he is absolutely right, that the Government at their most senior level should intervene in an area where there is the great potential, if not sensitively and carefully handled to cause unacceptable levels of nuisance to other citizens not as interested in the first objective and the principal objective of the legislation. Certainly, I have most enjoyed, it has been almost a therapeutic recreation for me to take a personal interest. I call myself the Clerk of Works of the Casemates Project and I have taken great pleasure in having a hand in the selection of the tables and the chairs to ensure that the finished product should be the high quality city centre square that we now enjoy. Perhaps, if Ministers in previous administrations had given more time to the detail and just a little less time to the broad brush there would now be less problems of detail for me to involve myself in than should have been the case.

The hon Member's speak about introducing a political dimension as if in a democracy the exercise of power by the elected government was somehow something bad. We had this last time, Mr Speaker. Interesting it is though coming from a political organisation that did as much as it could to almost make the civil service disappear, but even overlooking that minor rehabilitation that appears to have taken place amongst the Opposition Members, these are intensely political issues. The desire that there should be in Casemates Square viable entertainment at the time when the people of Gibraltar have a demand for it and that that should be carefully balanced with the interests of nearby neighbours is an intensely political project. It is Government policy that that should be so and therefore it is entirely proper that the Government should reserve to themselves the decision-making powers. The hon Member asked why this was not in the Department of Trade and Industry. This is neither about business nor about planning, it is about leisure. This whole policy area is not concerned with planning issues, it is not concerned with the interests of businesses. It is the Government saying "we think that modern Gibraltar should have a modern leisure industry for our people". It is Government policy that that should be so and therefore this is legislation to deliver. That is how democracies work in most places and I do not understand what the hon Member feels is the virtue of securing his election in order to make, to shape the destiny of Gibraltar should he ever find himself in that position, to then leave to others, whether it then be Magistrates or Civil Servants, the ability to decide whether the Government's entertainment policy is capable of seeing the light of day or is not. The hon Member appears to be very upset, I am glad he stopped short of calling it interference of the administration of justice as he used to do, it is just as well that he stopped short of using his usual scandalous type language because the United Kingdom are about to do the same thing and that is not seen to be as a nation of administration of justice interference. The United Kingdom Government are about to publish legislation eliminating the tavern licensing powers of the Magistrates' Court and handing it to the local councils. Before he takes advice from the junior legal fraternity with which he appears to surround himself the hon Member ought to bear in mind that

this is about to happen in the great metropolis as well, with the full support of the UK Licensed Victuallers' Association and everybody else.

Mr Speaker, it is not a question of marginalising the Gibraltar Licensed Victuallers' Association, but there are some organisations in Gibraltar who do not know the difference or appear not to know the difference between being consulted in proper measure and deciding what Government policy should be. There are some people in Gibraltar, and the Licensed Victuallers' Association falls squarely in the definition, who appear to think that the duty of the Government is not just to seek their views and then make the decision, but that the Government should not do anything of which they disapprove as if they were the elected Government and our mandate was just to take instructions from Mr Oton or from Mr Beriro or from Mr Fortunato and desist from doing what they like. Mr Speaker, again in a democracy the Government have a responsibility to govern and if the Government in their judgement have made the decision that Gibraltar needs expanded licensing hours for a greater sociological good, the fact that Mr Oton does not think we have gone far enough or thinks we have gone too far, his views were taken into account when he was invited to participate in a consultation process, that is how governments normally function in a democracy. They invite people who may be affected by their decisions to submit views, the Government then is faced with a dozen or more conflicting usually views, the Government draw from these views what they think they ought to draw and then make their policy and then make their decision. It is a matter of great regret and I think is capable of being interpreted as, at least in some people's minds, of calling into doubt the motives for the observations that the Gibraltar Licensed Victuallers' Association in commenting on this proposal ignore what is also said in the Government's press release about the wider review in autumn.

Then, one hears the word discrimination bandied about. There seems to be some extraordinary view that discrimination is always necessarily wrong. It is important to define the word discrimination. It is wrong to discriminate on extraneous grounds,

that one does not like them or does not like the colour of their eyes or one does not think they belong to the right political party, et cetera. That is the discrimination that is wrong, to differentiate at an administrative or political level between two citizens who are in the same circumstance, in the same factual situation, and to distinguish between them on the basis of some improper and irrelevant criteria, that is discrimination of the sort that is wrong and which was prevalent in Gibraltar until not so long ago. The discrimination that this Bill is involved with is of a very different kind and of a kind that is prevalent throughout our legislation in Gibraltar. The fact that one cannot deal with people in the same way because they are not in the same situation is common throughout the whole of our existing licensing laws or is it not the case that some bars and restaurants get a licence until four o'clock and others do not, because the Magistrates' decide that the noise, the objection from neighbours et cetera, is that discrimination? I have not heard the hon Member come out when the Magistrates', for example, refused the extension to one of the bars in Casemates. I did not hear the hon Member trot out one of his instant press releases saying "terrible discrimination" or does the Magistrate not know that there is a place in Waterport roundabout with a licence until four o'clock? Terrible discrimination. How can someone be denied a licence until four o'clock when somebody else has a licence until four o'clock. It is not discrimination, it is the fact that there are different circumstances because of the location, the extent to which the proposed activity represents a nuisance to neighbours, all of these issues are perfectly proper, valid, legitimate grounds to discriminate between people. The planning laws, why are some people allowed to build flats on the roofs of their house and others are not; Why do we discriminate between people who live near City walls or happen to own old buildings? Because the circumstances are different. Some people are given permission to do things and other people are not. That is not discrimination, that is the fact that reflects that there are different circumstances calling for a different result. This Bill fully intends to discriminate in that discerning manner. This Bill fully intends to create zones for leisure activity and that those zones will have certain facilities which establishments not in those zones will not have. If that is

what the hon Member calls discrimination then the Bill intends it, it is the whole concept of zoning. The whole concept of zoning is based on allowing things to be done in one area which one does not allow to be done in others. Are we to regard the City Plan of Gibraltar to be a discrimination because it says in this part of Gibraltar that one cannot build residential, in that part of Gibraltar one cannot build commercial property, in that part of Gibraltar one cannot change the use of a building. This is a terribly shallow and naïve view of what the word discrimination means and the circumstances in which it is right and the circumstances in which it is wrong.

Mr Speaker, the Hon Steven Linares immediately grinned and for effect looked at the Public Gallery in the hope of securing a Shakespearean applause, I do not know. It was at the time that the Hon Dr Garcia was making the earth-shattering point that section 8 of the Bill appears to set up the Chief Minister as the arbiter of good manners in Gibraltar. I must say I have never seen myself as the arbiter of good manners but on the other hand I would not be the worst arbiter of good manners that one could possibly hope to select. It may interest the hon Member to know that section 8, the one that Dr Garcia was so critical about because he thought that this was a heinous Government seeking powers of censorship over the act or, worse still, the Chief Minister seeking to impose his, presumably unacceptable to him, standards of good behaviour on others, it may interest him to know before he continues with his giggles that this is a replica, this is simply a section in the existing Entertainment Ordinance taken forward into the new Bill. Section 8(1) exists in the Entertainment Ordinance in the same manner, the only difference is that the existing Entertainment Ordinance sets up the Governor as the arbiter of good manners and this one sets up the Chief Minister. I do not know if the hon Member considers the Governor to be a more acceptable arbiter of good manners than the Chief Minister which the people can hire and fire at their pleasure but certainly unless he was going to take that rather unusual point, then I think the hon Member should recognise that this section is section 5 of the existing Entertainment Ordinance, he should withdraw all the insinuations that he has made about

the meaning, effect or the motive of the Government in introducing this section. We have not introduced this section, we have simply continued with a piece of legislation that has been in Gibraltar since 1934. If the hon Member wanted to he could make the quite different point that this is a convenient opportunity to modify or eliminate it. That would be a different point but if the hon Member did his homework properly he would not have embarked on the rather embarrassing course of impugning to the Government all sorts of heinous, dreadful, undemocratic motives for introducing a piece of legislation which the Government have not introduced, we have simply carried forward from the existing Entertainment Ordinance.

The hon Member appears to be concerned that this Bill gives absolute powers, no reasons need to be given and that there is no appeal. That is absolutely right and as it is intended to be. This Bill is about creating a regime of privilege. This Bill does not interfere with the existing statutory regime. Any organisation, any bar within an established zone that wants to carry on living by the new current regime, the one that applies to everybody, is perfectly free to carry on doing so and to keep their rights of appeal and to keep everything else. This legislation says "over and above that the Government as a matter of policy is willing to allow you to do extra things that the general law of the land does not allow you to do". How can one appeal against the refusal by the Government to let one do that? This is not an appeal against a general right under the law, this is the Government creating a special regime of extra liberalised facility over and above the existing statutory framework which remains intact. The idea, having criticised the Government for doing it in the first place, that someone should have a statutory right to a defence on a charge of nuisance as a matter of right regardless of whether they are complying or not with the licence, is not one to which the Government can subscribe. This creates a special regime of conditional privilege. If those conditions are not made and those conditions are essential to the balancing act of the leisure needs and the peace and quiet needs of the neighbours, the conditions in the licence are the means by which the Government will strike that balance. If after one gives a licence one had to wait for three months

judicial process to see if one could or could not revoke the licence or could or could not amend the licence, the hon Member would find it much more easier in the future to stand up in this House and say that the Government had got their balancing act wrong. As I am very keen to deprive the hon Member of the ability to be able to do that, the Government need also to have the ability to adjust the privileged licensing regime to ensure that the balancing act is struck. The hon Member again presumably, I do not know who he takes his advice from, even maybe his good wife, this business of the prosecuting power, I am told that these prosecuting provisions are taken from the existing legislation. This section of three years for prosecution is taken from.....

HON DR J J GARCIA:

I would like to make a point of order. This is the second time in this House that the hon Member has referred to my wife.

MR SPEAKER:

Nothing serious was said. I made a ruling some time ago and it was.....

HON CHIEF MINISTER:

Referring to ones family in a perfectly innocuous, unoffensive, unpolitically uncontroversial manner seems to me half as objectionable, if not a hundred per cent less objectionable..... I remember sitting on the Opposition benches and the the now Leader of the Opposition making political hay out of the fact that it was "your father in law" that was representing.....

MR SPEAKER:

There was a decision by this Chair that it should not be done, if you remember.

HON CHIEF MINISTER:

That was not the decision, but Mr Speaker, if the hon Member does not like me referring to the fact that he may take legal advice from his wife, then of course I shall not. I cannot imagine why he finds it offensive, he must know. I cannot for myself think of any objectionable offensive aspect to the reference, but perhaps he has some other sensitivity to it of which I am unaware but as a matter of personal regard for him I shall not refer to his good wife ever again.

Mr Speaker, the prosecution provisions that the hon Member was referring to are drawn from one of three Ordinances, I cannot tell him exactly which, but it will be the Entertainment Ordinance, the Licensing and Fees Ordinance or the Public Health Ordinance. This is not new law, it was not intended to be new law and is drawn from the existing Laws of Gibraltar. The hon Member appears to believe that every time a Minister gives to himself the power to prescribe things and to make regulations he is declaring himself an expert. The hon Member cannot be that unfamiliar with the way governments work in parliamentary democracies around the world. Does he honestly believe that whenever a piece of legislation gives to a Minister, which happens in almost every piece of legislation in the United Kingdom to make regulations, to make subsidiary legislation, that this somehow means that the Minister is personally holding himself up as an expert in the matter? Is the hon Member so far away from being ready for office that that is what he thinks? Is that how he thinks Government works? Or is he perhaps making the mistake of having asked the Gentleman sitting next to him, the Leader of the Opposition, which is how they used to do it, because when they were in office and Ministers had powers of making regulations, that is what it meant. It meant "do not consult an expert, do not consult the officials because we know best". It may be that the hon Member has fallen into the trap of seeking guidance from the Leader of the Opposition on this point and that is how maybe he has come to the conclusion that that is how Government Ministers make regulations, all by themselves. Perhaps the hon Member thinks I drafted these things on my kitchen table over breakfast at

home, without asking anybody. The hon Member ought to be aware that usually how these things work is that the power to make the regulation is given to the Minister but that the Minister is surrounded by helpful officials and experts all of whom advise him, indeed with the drafting, give some initial advice as to content, ultimately the political decision about whether to adopt or not to adopt subsidiary legislation, is the Minister's. I very much regret that the hon Member, who has said absolutely nothing about the merits of the Bill, perhaps he wants to have it both ways which is not unusual for them. This is rather like the Shadow Minister's for Health criticism of the health service. The health service is in crisis she told this House, absolute crisis, the health service is absolutely in crisis but the staff are magnificent, the staff are absolutely magnificent, they are absolutely first class but the health service is in crisis and it is just another of these politically insincere and completely incredible attempts to criticise the Government without paying the price out there in the street. Here we now have an Opposition which is terribly opposed to this Bill but actually do not utter a single word about what they think of the measures in the Bill lest we should upset all those young people that think it is a jolly good idea, lest we should upset all those parents. So now let us see, how can we be true to our style of criticising and objecting everything that this Government do without risking, because that requires too much political boldness and courage for them, without risking upsetting anybody else, "we try and pretend that the Chief Minister is some sort of dictatorial ogre who wants to decide everyone's level of table manners all by himself, over his breakfast table at home". Mr Speaker, I am always ready to stand and be judged by the Court of Gibraltar public opinion on assaults by the hon Member of that sort, not only because I do not think that that is how the electorate in Gibraltar will judge this Government but equally because the hon Members, given their track record in office, are not credible champions of so-called threatened civil liberties.

Mr Speaker, the final point the hon Member made related to the Federation of Small Businesses complaints. It is always the same crowd, it is always the same small group of organisations but it is interesting to note that the hon Member interprets the public

statement of the Federation of Small Businesses as meaning that this is undemocratic, discriminatory and absolute rule. But, of course, the Federation of Small Businesses did not have the same compunction. They appear not to have had the same scruples about having recourse to the same allegedly undemocratic, dictatorial, absolute rule, when it came to asking the Government's permission to have the street party every Thursday night without the neighbours having the right to appeal, without the neighbours being able to do anything about it. What are we to understand? That the very same power is dictatorial when it is not deployed for my benefit but it is okay when it is deployed for my benefit. That might be the assessment of things by the Federation of Small Businesses and indeed others. It is not the basis upon which the Government decide whether a power is right, proper and reasonable or not. I have tried to respond to the points that the hon Member made in the Bill. I still do not know whether he agrees or disagrees with the concept of extended hours and it seems to me extraordinary that we should complete a debate on the principles of this Bill and that this House and indeed the community at large should still not know whether the hon Member supports or does not support the principle of extended licensing hours in Casemates, or perhaps he supports the proposition that we should have the extended licensing hours in all parts of Gibraltar regardless of whether the premises are geared up for it. Mr Speaker, I am very happy to deal with any further detailed points that the hon Member may wish to raise during the Committee Stage.

Question put. The House voted:

For the Ayes:	The Hon K Azopardi
	The Hon Lt-Col E M Britto
	The Hon P R Caruana
	The Hon H Corby
	The Mrs Y Del Agua
	The Hon J J Holliday
	The Hon J J Netto
	The Hon R R Rhoda
	The Hon E G Montado OBE



For the Noes:       The Hon J L Baldachino  
                      The Hon J J Bossano  
                      The Hon Dr J J Garcia  
                      The Hon S E Linares  
                      The Hon Miss M I Montegriffo  
                      The Hon J C Perez  
                      The Hon Dr R G Valarino

Absent from the Chamber:   The Hon Dr B A Linares

HON CHIEF MINISTER:

I beg to give notice that the Committee Stage and Third Reading of this Bill be taken later today.

Question put. Agreed to.

**THE GIBRALTAR MERCHANT SHIPPING  
(REGISTRATION)(AMENDMENT) ORDINANCE 2001.**

HON J J HOLLIDAY:

I have the honour to move that a Bill for an Ordinance to amend the Gibraltar Merchant Shipping (Registration) Ordinance 1993, be read a first time.

Question put. Agreed to.

SECOND READING

HON J J HOLLIDAY:

I have the honour to move that the Bill be now read a second time. Mr Speaker, the purpose of this Bill is simple, throughout the Gibraltar Merchant Shipping (Registration) Ordinance 1993 there are many references to the Minister, however, the term is not defined. I am informed that this is often standard practice in the UK legislation not to define the term "Minister". As far as Gibraltar is concerned it is usual practice to include the definition of the "Minister". I wish to give notice that even though the Bill

before us defines the Minister to mean the Minister with responsibility for the Port, I propose to amend this at Committee Stage to define the Minister as the Minister with responsibility for Transport. Although it is understood that the Minister in question in the Gibraltar Merchant Shipping (Registration) Ordinance 1993 must be the Minister who is charged with responsibility for Transport, the purpose of this Bill is to clarify that the Minister in question is in fact the Minister for Transport. I commend the Bill to the House.

Discussion invited on the general principles and merits of the Bill.

HON DR J J GARCIA:

There is not very much to say on this one. The Opposition will be supporting the Bill.

Question put. Agreed to.

The Bill was read a second time.

HON J J HOLLIDAY:

I beg to give notice that the Committee Stage and Third Reading of this Bill be taken later today.

Question put. Agreed to.

**THE GIBRALTAR MERCHANT SHIPPING (SAFETY,  
ETC)(AMENDMENT) ORDINANCE 2001.**

HON J J HOLLIDAY:

I have the honour to move that a Bill for an Ordinance to amend the Gibraltar Merchant Shipping (Safety, etc) Ordinance 1993 be read a first time.

Question put. Agreed to.

## SECOND READING

HON J J HOLLIDAY:

I have the honour to move that the Bill be read a second time. Mr Speaker, the situation in respect of the Gibraltar Merchant Shipping (Safety, etc) Ordinance 1993 is identical to that which I have described in respect of the Gibraltar Merchant Shipping (Registration) Ordinance 1993. Again I wish to give notice that even though the Bill before us defines the Minister to mean the Minister with responsibility for the Port, I propose to amend this to define the Minister to mean the Minister with responsibility for Transport. For the avoidance of doubt the Government wish to ensure that the term "Minister" which is not at present defined in the Gibraltar Merchant Shipping (Safety, etc) Ordinance 1993 is in fact defined to mean the Minister with responsibility for Transport. I commend the Bill to the House.

Discussion invited on the general principles and merits of the Bill.

HON DR J J GARCIA:

Mr Speaker, again the same as in the previous Bill the Opposition will also be supporting this.

Question put. Agreed to.

The Bill was read a second time.

HON J J HOLLIDAY:

I beg to give notice that the Committee Stage and Third Reading of this Bill be taken later today.

Question put. Agreed to.

## COMMITTEE STAGE

HON ATTORNEY GENERAL:

I have the honour to move that the House should resolve itself into Committee to consider the following Bills, clause by clause:

- (1) The Leisure Areas (Licensing) Bill 2001;
- (2) The Gibraltar Merchant Shipping (Registration)(Amendment) Bill 2001;
- (3) The Gibraltar Merchant Shipping (Safety etc)(Amendment) Bill 2001.

### **THE LEISURE AREAS (LICENSING) BILL 2001**

HON CHIEF MINISTER:

Mr Chairman, the Hon Dr Garcia may be interested to know that Clause 30 of the Bill about which he was so concerned in relation to proceedings, is section 47 of the Licensing and Fees Ordinance.

### Clauses 1 to 32 and the Long Title

Question put. The House voted:

For the Ayes:           The Hon K Azopardi  
                              The Hon Lt-Col E M Britto  
                              The Hon P R Caruana  
                              The Hon H Corby  
                              The Hon Mrs Y Del Agua  
                              The Hon J J Holliday  
                              The Hon J J Netto  
                              The Hon R R Rhoda  
                              The Hon E G Montado OBE

For the Noes:           The Hon J L Baldachino  
                              The Hon J J Bossano  
                              The Hon Dr J J Garcia  
                              The Hon S E Linares  
                              The Hon Miss M I Montegriffo  
                              The Hon J C Perez  
                              The Hon R G Valarino

Absent from the Chamber: The Hon Dr B A Linares

Clauses 1 to 32 and the Long Title stood part of the Bill.

**THE GIBRALTAR MERCHANT SHIPPING (REGISTRATION)  
(AMENDMENT) BILL 2001**

Clause 1 was agreed to and stood part of the Bill.

Clause 2

HON J J HOLLIDAY:

Mr Chairman, I wish to move the following amendment in the definition of "Minister" delete the word "Port" and insert "Transport".

Clause 2, as amended, was agreed to and stood part of the Bill.

The Long Title was agreed to and stood part of the Bill.

**THE GIBRALTAR MERCHANT SHIPPING (SAFETY, ET  
CETERA) (AMENDMENT) BILL 2001**

Clause 1 was agreed to and stood part of the Bill.

Clause 2

HON J J HOLLIDAY:

Mr Chairman, I wish to move the following amendment, in the definition of "Minister" delete the word "Port" and insert "Transport".

Clause 2, as amended, was agreed to and stood part of the Bill.

The Long Title was agreed to and stood part of the Bill.

THIRD READING

HON ATTORNEY GENERAL:

I have the honour to report that the Leisure Areas (Licensing) Bill 2001; the Gibraltar Merchant Shipping (Registration)(Amendment) Bill 2001, with amendment; the Gibraltar Merchant Shipping (Safety etc)(Amendment) Bill 2001, with amendment, and the Employment Ordinance (Amendment) Bill 2001; have been considered in Committee and I now move that they be read a third time and passed.

Question put.

The Gibraltar Merchant Shipping (Registration)(Amendment) Bill 2001; the Gibraltar Merchant Shipping (Safety etc) Bill 2001; and the Employment Ordinance (Amendment) Bill 2001, were agreed to and read a third time and passed.

The Leisure Areas (Licensing) Bill 2001.

The House voted:

For the Ayes:           The Hon K Azopardi  
                              The Hon Lt-Col E M Britto  
                              The Hon P R Caruana  
                              The Hon H Corby

The Hon Mrs Y Del Agua  
The Hon J J Holliday  
The Hon J J Netto  
The Hon R R Rhoda  
The Hon E G Montado OBE

For the Noes:       The Hon J L Baldachino  
                          The Hon J J Bossano  
                          The Hon Dr J J Garcia  
                          The Hon S E Linares  
                          The Hon Miss M I Montegriffo  
                          The Hon J C Perez  
                          The Hon Dr R G Valarino

Absent from the Chamber:   The Hon Dr B A Linares

The Bill was read a third time and passed.

#### ADJOURNMENT

The Hon the Chief Minister moved the adjournment of the House sine die.

Question put. Agreed to.

The adjournment of the House was taken at 11.48 am on Monday 23<sup>rd</sup> July 2001.

# GIBRALTAR

## HOUSE OF ASSEMBLY



# HANSARD

**5<sup>th</sup> November 2001**

(adj to 6<sup>th</sup>, 9<sup>th</sup> November; 3<sup>rd</sup>, 19<sup>th</sup>, 20<sup>th</sup> December)

**REPORT OF THE PROCEEDINGS OF THE HOUSE OF  
ASSEMBLY**

The Sixth Meeting of the first Session of the Ninth House of Assembly held in the House of Assembly Chamber on Monday 5<sup>th</sup> November 2001, at 10.00 am.

**PRESENT:**

Mr Speaker.....( In the Chair)  
(The Hon Judge J E Alcantara CBE)

**GOVERNMENT:**

The Hon P R Caruana QC - Chief Minister  
The Hon K Azopardi - Minister for Trade, Industry and  
Telecommunications  
The Hon Dr B A Linares - Minister for Education, Training,  
Culture and Health  
The Hon J J Holliday - Minister for Tourism and Transport  
The Hon Lt-Col E M Britto OBE, ED - Minister for Public Services,  
the Environment, Sport and Youth  
The Hon H A Corby - Minister for Employment and Consumer  
Affairs  
The Hon J J Netto - Minister for Housing  
The Hon Mrs Y Del Agua - Minister for Social Affairs  
The Hon R Rhoda QC - Attorney General  
The Hon E G Montado, OBE - Financial and Development  
Secretary (Ag)

**OPPOSITION:**

The Hon J J Bossano - Leader of the Opposition  
The Hon Dr J J Garcia  
The Hon J L Baldachino  
The Hon Miss M I Montegriffo  
The Hon Dr R G Valarino  
The Hon J C Perez  
The Hon S E Linares

**IN ATTENDANCE:**

D J Reyes Esq, ED - Clerk of the House of Assembly

**PRAYER**

Mr Speaker recited the prayer.

**CONFIRMATION OF MINUTES**

The Minutes of the Meeting held on the 30<sup>th</sup> April 2001, having been circulated to all hon Members were taken as read, approved and signed by Mr Speaker.

**DOCUMENTS LAID**

The Hon the Minister for Employment and Consumer Affairs laid on the Table the Employment Survey Report for the periods ended October 1999 and October 2000.

Ordered to lie.

The Hon the Financial and Development Secretary laid on the Table the following documents:-

- (1) The Accounts of the Government of Gibraltar for the year ended 31<sup>st</sup> March 2000 together with the Report of the Principal Auditor thereon.
- (2) The Gibraltar Broadcasting Corporation Annual Report 1999-2000 and audited accounts for the year ended 31<sup>st</sup> March 2000.
- (3) Statement of Consolidated Fund Reallocations approved by the Financial and Development Secretary (No 17 of 2000/2001).

Ordered to lie.

#### **ANSWERS TO QUESTIONS**

The House recessed at 1.00 pm

The House resumed at 2.30 pm

Answers to questions continued.

The House recessed at 5.00 pm

The House resumed at 5.45 pm

Answers to questions continued.

The House recessed at 8.35 pm

The House resumed at 8.40 pm

#### **ADJOURNMENT**

The Hon the Chief Minister moved the adjournment of the House to Tuesday 6<sup>th</sup> November 2001, at 9.30 am.

Question put.                      Agreed to.

The adjournment of the House was taken at 9.45 pm on Monday 5<sup>th</sup> November 2001.

#### **TUESDAY 6<sup>TH</sup> NOVEMBER 2001**

The House resumed at 9.40 am.

#### **PRESENT:**

Mr Speaker.....( In the Chair)  
(The Hon Judge J E Alcantara CBE)

#### **GOVERNMENT:**

The Hon P R Caruana QC - Chief Minister

The Hon K Azopardi - Minister for Trade, Industry and  
Telecommunications

The Hon Dr B A Linares - Minister for Education, Training, Culture  
and Health

The Hon Lt-Col E M Britto OBE, ED- Minister for Public Services,  
the Environment, Sport and Youth

The Hon H A Corby - Minister for Employment and Consumer  
Affairs

The Hon J J Netto - Minister for Housing

The Hon Mrs Y Del Agua - Minister for Social Affairs  
The Hon E G Montado, OBE - Financial and Development  
Secretary (Ag)

The House recessed at 1.50 pm

The House resumed at 3.40 pm

**OPPOSITION:**

The Hon J J Bossano - Leader of the Opposition  
The Hon Dr J J Garcia  
The Hon J L Baldachino  
The Hon Miss M I Montegriffo  
The Hon Dr R G Valarino  
The Hon J C Perez  
The Hon S E Linares

Answers to Question continued.

The House recessed at 5.30 pm

The House resumed at 5.50 pm

Answers to Questions continued.

The House recessed at 7.40 pm

The House resumed at 7.45 pm

**ABSENT:**

The Hon J J Holliday – Minister for Tourism and Transport  
The Hon R Rhoda QC - Attorney General

Answers to Questions continued.

**IN ATTENDANCE:**

D J Reyes Esq, ED - Clerk of the House of Assembly

**ADJOURNMENT**

The Hon the Minister for Trade, Industry and Telecommunications moved the adjournment of the House to Friday 9<sup>th</sup> November 2001, at 3.00 pm.

**ANSWERS TO QUESTIONS (CONTINUED)**

The House recessed at 11.40 am

The House resumed at 11.45 am

Question put. Agreed to.

The Adjournment of the House was taken at 8.20 pm on Tuesday 6<sup>th</sup> November, 2001.

Answers to Questions continued.



**FRIDAY 9<sup>TH</sup> NOVEMBER 2001**

The Hon J C Perez  
The Hon S E Linares

The House resumed at 3.05pm.

**PRESENT:**

Mr Speaker.....(In the Chair)  
(The Hon Judge J E Alcantara CBE)

**GOVERNMENT:**

The Hon P R Caruana QC - Chief Minister  
The Hon K Azopardi - Minister for Trade, Industry and  
Telecommunications  
The Hon Dr B A Linares - Minister for Education, Training,  
Culture and Health  
The Hon J J Holliday - Minister for Tourism and Transport  
The Hon Lt-Col E M Britto OBE, ED- Minister for Public Services,  
the Environment, Sport and Youth  
The Hon H A Corby - Minister for Employment and Consumer  
Affairs  
The Hon J J Netto - Minister for Housing  
The Hon Mrs Y Del Agua - Minister for Social Affairs  
The Hon R Rhoda QC - Attorney General  
The Hon E G Montado, OBE - Financial and Development  
Secretary (Ag)

**OPPOSITION:**

The Hon J J Bossano - Leader of the Opposition  
The Hon Dr J J Garcia  
The Hon J L Baldachino  
The Hon Miss M I Montegriffo  
The Hon Dr R G Valarino

**IN ATTENDANCE:**

D J Reyes Esq, ED - Clerk of the House of Assembly

**BILLS**

**FIRST AND SECOND READINGS**

**THE LEISURE AREAS (LICENSING) ORDINANCE 2001  
(AMENDMENT) ORDINANCE 2001**

**HON CHIEF MINISTER:**

I have the honour to move that a Bill for an Ordinance to amend the Leisure Areas (Licensing) Ordinance 2001, be read a first time.

Question put.                      Agreed to.

**SECOND READING**

**HON CHIEF MINISTER:**

I have the honour to move that the Bill be now read a second time. Mr Speaker, hon Members may recall that in my Second Reading contribution at the time that the Leisure Areas (Licensing) Ordinance, then Bill, was being considered by this

House, I said that the Government would be studying lessons we might learn from implementing the Ordinance to see how it might be improved as required. In the short period of time that the 2001 Ordinance has been enforced, Casemates has, the Government believe, successfully established itself as an entertainment hub for Gibraltar as was the intention behind the project. Open air theatrical and musical events have abounded over the summer period. The success, however, had the effect of bringing to the fore the fact that the Ordinance, whilst successfully regulating indoor entertainment, completely failed to address the licensing of outdoor entertainment. This led to the rather unusual situation and anomaly whereby several licensing authorities continue to coexist at Casemates depending on whether an entertainment event is being held inside a café or in the square itself. In the case of a non-paying event no regulatory infrastructure exists at all. Against such a scenario the Government consider it prudent to streamline the entertainment licensing arrangements for the square. Hon Members will recall that the principal feature of the Ordinance was that all the various licences required at Casemates, whether it be Tavern, Food, Entertainment, Tables and Chairs, were transferred into the Leisure Areas Ordinance. What this Bill does is to amend sections 5 and 8 of the Ordinance, the effect of which amendments is to subject street performers in leisure areas to the licensing regime provided for in the principal Ordinance so whereas at the moment, under the Ordinance the entertainment aspect of the licence is done under the Leisure Areas Ordinance if the entertainment is inside the bar, if it is outside on the square it is still being left under the old regime and that was something that was overlooked at the time and if the distinction had been spotted it would have been included in the original Bill that was approved in this House. I commend the Bill to the House.

Discussion invited on the general principles and merits of the Bill.

#### **HON DR J J GARCIA:**

Mr Speaker, when the original Bill was debated in this House the Opposition took the view that it raised serious issues of principle and we voted against it. That was in July. What this Bill seeks to do is to extend the hours to which we took objection then into another area, in this case outdoor entertainment. In particular section 8 of the original Ordinance of July, which we are now seeking to amend, is precisely one of the sections to which we took objection to then which is the one that makes it lawful for the Licensing Authority to whenever it is of the opinion that it is fitting for the preservation of good manners, decorum or the public peace to forbid the public acting, presenting or holding of any entertainment in a relevant establishment, that that particular section 8 (1) is now also amended to include the public highway as well.

Mr Speaker, on the basis of the arguments which we already rehearsed in July, the view of the Opposition is that this extends those same powers which are subjective to another area as well and therefore that it makes the Chief Minister's hobby as the Clerk of Works at Casemates and extends them to becoming its entertainment manager as well. On that basis the Opposition will be voting against the Bill.

#### **HON CHIEF MINISTER:**

Mr Speaker, I thought I had sufficiently explained to the hon Member back in July in this House, when we debated the Bill that this section to which he appears to have such grave objections, which he believes sets the Government up as the arbiter of good taste and good manners, the hon Member appears to think that the Government have introduced it into the Leisure Areas (Licensing) Ordinance. I told him at the time that this section is already and has always been in the Laws of Gibraltar under the Entertainments Ordinance and that in fact the version of it that we carried-forward from the Entertainments Ordinance into the

Leisure Areas (Licensing) Ordinance was actually a diluted version of what had been the Law of Gibraltar since 1953. The hon Member may believe as he so often demonstrates, that he has this inconsistency when we argue for example by Constitutional reform under the existing Entertainments Ordinance the section dealing with control in the public interest on grounds of good taste, good manners, decorum and public peace, the powers, the very same powers we have contained here are exercisable by the Governor who is one man. I do not know whether the Hon Mr Perez, who has now intervened from a sedentary position twice during this debate, finds it acceptable that one man should exercise control in the public interest in the interests of decorum, provided that that one man is the Governor but if that one man is the Chief Secretary of the Government of Gibraltar somehow a legal statutory power that has been acceptable for 40 years should suddenly become a human rights violation.

The hon Member could have argued, and I suppose could still argue if he wants to, that power might have been appropriate in 1953 and even though I recognise that it is contained in the Entertainments Ordinance, this would have been a good opportunity for the House to drop it and we would not have agreed with that, but at least it would have been an arguable approach, but what the hon Member cannot do is repeatedly make public statements in this House and outside of this House because I remember he repeated the same nonsense in an interview after the last debate, the hon Member cannot make public statements which suggest that the Government have introduced this section as new law now when all we have done as we did with parts of the other sections in the Leisure Areas Bill, is simply carried forward existing provisions from the Entertainments Ordinance into the Entertainment sections of this new Bill. I do not know if the hon Member has forgotten that or understands that but simply chooses to ignore it. He is free to take the view that that should not be the law. He is free to take the view that the law, if that has always been the law that it should cease to be the law. He could have introduced an

amendment to delete the section at the time that we debated it, which he chose not to. He can do all of those things. What the hon Member cannot do is continue to mislead this House by implying that this is new law when it is not new law and I cannot do more than point that fact out to him. The hon Member may not want to believe me when I tell him it is existing law, but at least the fact that I point it out to him and that I assert to him that it is not new law should at least encourage him to refer to those eleven black books that the taxpayer has placed before him, called the Laws of Gibraltar, at least to check if what I am telling him is true. Therefore, once again the hon Members are voting against this Bill on completely false premises. They are voting against this Bill on the basis that the Government have introduced into it a terribly bad section of law which has always been the Law of Gibraltar, with the difference that whereas before the powers were vested in His Excellency the Governor, they are now vested in the Licensing Authority who is the Chief Secretary of the Government of Gibraltar. Unless, therefore, the hon Member finds one acceptable but not the other, his position should be that they are both unacceptable to him rather than to pretend that it is now unacceptable to him if before it was not.

Question put.

The House voted:

For the Ayes:

The Hon K Azopardi  
The Hon Lt-Col E M Britto  
The Hon P R Caruana  
The Hon H A Corby  
The Hon Mrs Y Del Agua  
The Hon J J Holliday  
The Hon Dr B A Linares  
The Hon J J Netto  
The Hon R R Rhoda  
The Hon E G Montado

For the Noes:           The Hon J L Baldachino  
                              The Hon J J Bossano  
                              The Hon Dr J J Garcia  
                              The Hon S E Linares  
                              The Hon Miss M I Montegriffo  
                              The Hon J C Perez  
                              The Hon Dr R G Valarino

The Bill was read a second time.

**HON CHIEF MINISTER:**

I beg to give notice that the Committee Stage and Third Reading of the Bill be taken later today.

Question put.           Agreed to.

**THE TRANSPORT OF DANGEROUS GOODS ORDINANCE  
2001**

**HON H A CORBY:**

I have the honour to move that a Bill for an Ordinance to transpose into the Law of Gibraltar the provisions of Council Directive 94/55/EC on the approximation of the laws of the Member States with regard to the transport of dangerous goods by road and Council Directive 96/35/EC on the appointment and vocational qualifications of safety advisers for the transport of dangerous goods by road, rail and inland waterway, be read a first time.

Question put.           Agreed to.

**SECOND READING**

**HON H A CORBY:**

I have the honour to move that the Bill be now read a second time. Mr Speaker, this short Bill implements the directive concerning the International Carriage of Dangerous Goods by Road known as AVR from its title in French. The directive simply applies to the United Nations agreement drawn up by the United Nations Economical Commission for Europe across the EU. It also implements the directive for safety advisers in relation to the transport of dangerous goods. Although it relates to transport, the prime purpose of the agreement is in respect of health and safety.

The directive itself and the agreement are relatively short and simple as is the Bill. The meat of the matter is contained in Annexes A and B of the Agreement. This runs to about one thousand pages of closely-written text containing the list of dangerous goods, methods of packing them, labelling, vehicle construction, equipment and operation. The House will be familiar with the orange plates on the back of, for instance, petrol tankers which carry various numbers and signs. These are part of the AVR. Rather than copy out the full text of Annexes A and B which are themselves amended every two years or so to reflect changing conditions and advances in technology, the Bill simply refers back to them. The essential points are that when involved in international transport of dangerous goods the driver must be competent and carry a certificate of training. The vehicle must be approved and the goods must be listed in the transport document. The certificate in respect of the driver and vehicle can be given by a competent authority. The Minister is given power in the Bill to nominate the competent authority in respect of Gibraltar. Because of the huge majority of international transport of dangerous goods in Gibraltar this is only incoming rather than outgoing. The effect of the Bill is likely to be minimal and since all other EU States have already implemented the

directive, in practice any outgoing transport must already comply with the rules. However, the Factory Inspectors in Gibraltar will now have legislative power backing to ensure that any incoming vehicles comply with the rules.

The Safety Advisers Directive is separate but connected. Essentially, it provides that any transport undertaking involved in the carriage of dangerous goods must have on its staff or available to it a trained Safety Adviser holding a Certificate of Training by a recognised authority. This is the responsibility of the undertaking. However, the competent authority which issues a certificate for the vehicle and the driver will not issue those certificates unless the Safety Adviser is in place. Let me give a practical example of how this works. A petrol tanker registered abroad comes in from Spain, it must have the relevant certificates in respect of the driver and the vehicle, the transport document describing the goods and show the appropriate orange plate. Customs Officers, Factory Inspectors and others may inspect the documents and the vehicle to ensure that all is present and correct. If there is any discrepancy the vehicle might be sent back or refused entry and the discrepancy will be reported to the appropriate national competent authority who will take action to correct it. The converse is where the vehicle registered in Gibraltar carries dangerous goods for another destination in the EU. Once again it must carry the relevant documents issued by a competent authority and so on. The practical effect of this Bill is simply to put on the legislative basis what happens in practice and to enable Gibraltar to cross off some apparent unimplemented directives from the list. I commend the Bill to the House.

Discussion invited on the general principles and merits of the Bill.

## **HON J C PEREZ:**

Mr Speaker, let me say first that given the grave problems facing Gibraltar it seems a bit of an anti climax to be discussing today matters of this issue particularly in the context of the application of EU law when there are EU rights that ought to be applied to Gibraltar and are being withheld for reasons that we know best. On this occasion it is an EU directive which is to protect workers and to protect our citizens and it is most welcome that we should be doing it and we shall support it. Let me say, however, that although the Minister has said that there is a minimal application to it in Gibraltar, I would suppose that that minimum is contained to the transportation of dangerous goods by road unless, of course, we are revealing here the secret plan of the Chief Minister on public transport and we are now going to have inland waterways and railways all over the place. It might be an indication of what is to come, or we might be using the 10 metre deep sewer as the waterway for the transportation of goods which I doubt very much. But, joking apart, the Ordinance binds the Crown and I would presume that that means that it binds the Ministry of Defence in the transportation of explosives and weaponry whenever that is necessary for the ammunitions to be moved from one area to the other and it is most welcome, although of course there are powers in the Ordinance for the Transport Commission to grant permission for a single journey and one ought to be able to monitor that to see that a single journey does not reoccur on so many occasions that there is in de facto a breach of the regulations because single journeys occur in distant parts.

The other thing I would like to take up with the Minister is the question..... I think he talked about the Health and Safety Officers being now the people that would be able to monitor the situation, whereas the Ordinance under Safety Advisers specifies that the undertaking involved, that the undertaking itself that is involved with the loading or unloading of the dangerous substances being transported are the ones..... the cost of the Dangerous Goods Adviser is borne by them and then the

Government have an authority to give the certificate to the Safety Officer or to the Safety Adviser as I understand clause 6 as it is expressed in the Bill. Perhaps the Minister could explain that. Other than that we have no difficulty in supporting the Bill.

**HON CHIEF MINISTER:**

In respect to the Ministry of Defence, I can confirm to the hon Member that the Crown means the Crown in all its Departments.

**HON H A CORBY:**

Mr Speaker, as far as the issuing of the certificates are concerned, these are people who have taken a course on it and have a certificate to say that they can inspect the goods and that they are ready for transportation, that the driver is trained and also that the vehicle is in condition. These are the people who give the certificates either in the country of origin or here in Gibraltar. The Health and Safety and Customs are only responsible to see that the documentation in as far as the driver and the vehicle is worthy and has the certification.

**HON J C PEREZ:**

The confusion I have, Mr Speaker, is that the Bill says that the dangerous goods Safety Adviser that is involved in the transport of dangerous goods is appointed by the undertaking involved and then there is an authority put by the Minister to give the proper certificate to that dangerous goods Safety Adviser. That is how I read it and I thought that the Minister said that the Dangerous Goods Safety Adviser would now be the Safety Officers of the Government. I think perhaps for clarification purposes the Health and Safety Officers of the Government are the ones that will give the certificates to the Dangerous Goods Adviser employed by the undertaking, is that what the Bill is trying to reflect?

**HON H A CORBY:**

No, Mr Speaker. The Bill states that the adviser is the person that gives the certification. It is only when they enter Gibraltar that the safety people and the Customs look at the documentation, which the Adviser has already certified as good, to see that everything is in place.

**HON J C PEREZ:**

If the Minister would care to see clause 6(1), it says “*an undertaking involved in the transport of dangerous goods.....*”, an undertaking meaning “*company*” or whatever.... “*shall appoint a person to act as Dangerous Goods Safety Adviser*”. So the Dangerous Goods Safety Adviser is appointed by the party that is involved in transporting the dangerous goods and therefore it is paid for by that company, the cost is borne by the company. Therefore, the certificate for the Dangerous Goods Safety Adviser has then to be given by the body that the Minister nominates.

**HON H A CORBY:**

Yes.

**HON CHIEF MINISTER:**

In section 6(2) companies or transporters of dangerous goods may not appoint as a safety adviser someone who is not certificated to be appointed as a Safety Adviser and that appointment as a Safety Adviser has got to be effected under the Safety Adviser Directive 96/35/EC which regulates who is qualified to be appointed. There is a separate directive referred to in the Bill “The Safety Adviser Directive” which regulates the appointment and vocational qualifications of Safety Advisers and no one can be appointed as a Safety Adviser unless they are

certified under that directive by the other authority to which the hon Member has referred.

Question put.            Agreed to.

The Bill was read a second time.

**HON H A CORBY:**

I beg to give notice that the Committee Stage and Third Reading of the Bill be taken later today.

Question put.            Agreed to.

**THE MISLEADING AND COMPARATIVE ADVERTISING ORDINANCE 2001**

**HON H A CORBY:**

I have the honour to move that a Bill for an Ordinance to repeal and re-enact the Misleading Advertising Ordinance 1993 as amended so as to transpose into the law of Gibraltar European Parliament and Council Directive 97/55 amending Council Directive 84/450 relating to Misleading Advertising so as to include Comparative Advertising, be read a first time.

Question put.            Agreed to.

**SECOND READING**

**HON H A CORBY:**

I have the honour to move that the Bill be now read a second time. Mr Speaker, this Bill is part of an on-going process on the part of this Government to enhance the fabric of our consumer protection infrastructure. The legislative activity in the development and implementation of consumer policy in recent years has been significant. A total of six Consumer Protection Directives have so far been transposed covering important areas such as door-step selling, unfair terms on consumer contents and now comparative advertising. This Bill repeals and re-enacts the Misleading Advertising Ordinance 1993 with amendments in order to transpose into the law of Gibraltar European Parliament and Council Directive 97/55. The Ordinance transposes Council Directive 84/450 on misleading advertising. Directive 97/55 builds upon Directive 84/450 so as to include within its scopes comparative advertising.

Implementing Directive 97/55 has necessitated a large volume of amendments to what is a short Ordinance, such that the Government have considered it more appropriate for the sake of good order to simply repeal the Misleading Advertising Ordinance and re-enact it with amendments. The Bill defines Comparative Advertising as an advertisement which either implicitly or explicitly identifies the competitor of goods or services offered by a competitor. Comparative advertising is permitted only when the conditions set out in the Bill are met. Under current Gibraltar law there is no general prohibition on comparative advertising although it is subject to a number of controls, in particular, use of a trade mark in comparative advertising is allowed under section 10(6) of the Trade Marks Act 1994 as applied by the Trade Marks Ordinance provided that it does not take unfair advantage of and is not detrimental to the distinctive character or repute of a competitor's trade mark. This is in line with the provisions of the directive. The Bill follows the practice established in the Unfair

Terms of Consumer Contracts Ordinance whereby persons having as their sole or principal aim the promotion of interests of consumers may apply to the Minister to be designated as capable of considering complaints from consumers about misleading and comparative advertising. Following the consideration of such complaints designated persons may bring an action for an injunction to prevent the publication or continuous use of the offending advertisement. I commend the Bill to the House.

Discussion invited on the general principles and merits of the Bill.

**HON DR J J GARCIA:**

Mr Speaker, the Opposition welcomes measures taken to protect the consumer in Gibraltar but consider that the manner in which the Government have chosen to transpose the directive can have the effect of weakening the rights of consumers as they existed in the 1993 Ordinance as individuals rather than strengthening them. The Bill seeks to replace the 1993 Misleading Advertising Ordinance so as to include within its cloak the Comparative Advertising Ordinance. The 1993 Ordinance transposed a 1984 directive on misleading advertising and the Ordinance before the House today seeks to amend the Ordinance passed by this House in 1993.

Mr Speaker, whilst most of the Bill follows the directive closely, the Opposition is not happy with the terms of section 5 which allows for the Minister to designate a person or a group of people who have, in his opinion, the sole or principal aim in the promotion of the interests of consumers. A designated person is then tasked with considering complaints that an advertisement is contrary to the provisions of this Ordinance and with bringing legal proceedings for an injunction. I will read out section 3(1) of the 1993 Ordinance which says under the heading "*Application for Order restraining misleading advertising - a person whether or*

*not he has suffered or is likely to suffer loss or damage as a result of misleading advertising may make an application to the Supreme Court for an Order of the court directing any person who in Gibraltar and whether on behalf of himself or someone else is engaging in misleading advertising or who in the opinion of the court is about to engage to cease from so doing or not to do so as the case may be".*

Mr Speaker, the view of the Opposition is that whereas previously an individual could take legal redress directly, the Bill brought before this House gives that right to a designated person or group of people nominated by the Minister. In the same way as the 1997 directive amends the 1984 directive, only to include comparative advertising within its scope, it is the view of the Opposition that this Bill should simply have amended the 1993 Ordinance in the same way without introducing the concept of the person designated by the Minister as a filter through which applications go or do not go to court as they see it fit or as they deem possible. The Minister has already said that that would have entailed a large number of amendments. From having studied the two directives, it does not seem to be such a labour intensive job as that suggests.

Mr Speaker, I would welcome an explanation from the Government as to why the route they have chosen is the route of the Unfair Terms in Consumer Contracts Ordinance and not the route in the Misleading Advertising Ordinance of 1993 which we are repealing and re-enacting. We would also be grateful if the Minister could tell us whether under the Unfair Terms in Consumer Contracts Ordinance any person or any group has actually been designated to date. That Ordinance dates back to 1998, we would like to know whether any such group or person has been designated in the intervening timescale. As presently drafted, Mr Speaker, and for those reasons the view of the Opposition is that the Bill takes away rights from consumers as individuals to take this course of action and we will be voting against it.



**HON CHIEF MINISTER:**

Mr Speaker, I cannot tell the hon Member why there has been a change in the procedural route for relief. Certainly there has not been, as far as I am aware, a policy decision of the Government and therefore what we will do is accept the hon Member will either vote against or abstain in the Second Reading and I will give him a fuller explanation at the Committee Stage. If the explanation that I seek and obtain is not persuasive of me and then the Government then we may well revert but I do not have any information. I was not aware that there was this new choice made in the context of what has been explained to me as a repealing and re-enactment. If what they have done is change the mechanics of the original Bill then it is not a repeal and re-enactment, it is a repeal, amendment and re-enactment which is not what I am aware of as being the position and I believe that the Minister is under the same impression. Therefore, we will not delay the Second Reading, this is, at the end of the day, just a debate on principle. I believe that that matter can be left for the Committee Stage and what we will do is that we will leave this Bill and not the Transport one that we had been intending to leave on the agenda, we will leave this one and return to it at a later date in Committee when I am able to provide the House with the information that it has sought.

**HON J J BOSSANO:**

Mr Speaker, we are grateful for that contribution. Can the Government then, in looking at this, look at the question of whether in the light of what we have said that at the moment with the law that is being repealed in 1993 an individual can take action without having to go to complain to somebody. The actual directive says that the law of the Member State must provide for legal action in respect of the persons that are, under that law, determined to have a legitimate interest in prohibiting the misleading advertising. Effectively, what the 1993 law does is to say everybody in Gibraltar has a legitimate interest. What this law does is to say only persons that have persuaded the Minister

that their sole or primary role is consumer protection have a legitimate interest. The point I am making is in terms of Community law, it is established that in giving effect to Community directives, it is not permissible to use the directive bringing less protective measures than exist under national law. We have nothing at all giving effect to the directive which in this restricted sense is one thing, but if we have a clause that gives the legal right to complain about a misleading advert to everybody in Gibraltar and we utter it in the context of giving effect to a new directive limited to less people then I do not think we are acting consistent with what I have seen in the past where invariably it says that Member States may have wider protection than the minimum required to comply with the directive and that the Member State should not use a directive to actually reduce the.....

**HON CHIEF MINISTER:**

Would the hon Member give way? Mr Speaker, I am not sure that he is right. I accept that I am not aware that the Government's intention was to bring about the changes that they have identified. That is the point I intend to look into and refer back to the House at Committee Stage. But on the point that he is making a directive is a minimum standard, we can always do more than but if one had a law which does not, which as a matter of domestic policy gave more, one can if one wants to, it is not what the Government have intended to do, but could, it is not wrong, as a matter of domestic choice to say "I repeal the law that gave more than the European Union Directive required me, as a matter of domestic legislative choice, policy, I claw back that generous piece of legislation and I replace it with a Bill that does nothing more than deliver the minimum that I am required....". One is perfectly able to do that. The fact that the Government have legislated more than is required does not mean that they are not able to repeal that and replace it with something that gives less so long as the less is not less than the directive's requirements. I agree that it is unusual to use the occasion of the implementation of a directive to achieve a secondary purpose

when that secondary purpose actually is to reduce the level of protection in the very area in which the directive..... I think there is no technical objection in terms of the legislative process to doing that. This House can repeal any Ordinance that it wants to repeal and replace it with more, less or something different of the same degree. I do not think there is a legalistic or technical objection but it is certainly not what the Government think they are doing here in this case and certainly not what the Government were intending to do. That is the point upon which we will come back.

**HON J J BOSSANO:**

In the context of that let me say that the 1993 one was also implementing a directive, it was not purely a domestic thing.

Question put. The House voted.

For the Ayes:           The Hon K Azopardi  
                              The Hon Lt-Col E M Britto  
                              The Hon P R Caruana  
                              The Hon H A Corby  
                              The Hon Mrs Y Del Agua  
                              The Hon J J Holliday  
                              The Hon Dr B A Linares  
                              The Hon J J Netto  
                              The Hon R R Rhoda  
                              The Hon E G Montado

Abstained:             The Hon J L Baldachino  
                              The Hon J J Bossano  
                              The Hon Dr J J Garcia  
                              The Hon S E Linares  
                              The Hon Miss M I Montegriffo  
                              The Hon J C Perez  
                              The Hon Dr R G Valarino

The Bill was read a second time.

**HON H A CORBY:**

I beg to give notice that the Committee Stage and Third Reading of the Bill be taken at a later stage in the meeting.

**COMMITTEE STAGE**

**HON ATTORNEY GENERAL:**

I have the honour to move that the House should resolve itself into Committee to consider the following Bills clause by clause:

1.     The Leisure Areas (Licensing) Ordinance 2001 (Amendment) Bill 2001
2.     The Transport of Dangerous Goods Bill 2001.

**THE LEISURE AREAS (LICENSING) ORDINANCE 2001 (AMENDMENT) BILL 2001**

**Clauses 1 and 2 and the Long Title**

Question put. The House voted:

For the Ayes:           The Hon K Azopardi  
                              The Hon Lt-Col E M Britto  
                              The Hon P R Caruana

The Hon H A Corby  
The Hon Mrs Y Del Agua  
The Hon J J Holliday  
The Hon Dr B A Linares  
The Hon J J Netto  
The Hon R R Rhoda  
The Hon E G Montado

For the Noes:

The Hon J L Baldachino  
The Hon J J Bossano  
The Hon Dr J J Garcia  
The Hon S E Linares  
The Hon Miss M I Montegriffo  
The Hon J C Perez  
The Hon Dr R G Valarino

Clauses 1 and 2 and the Long Title - stood part of the Bill.

## **THE TRANSPORT OF DANGEROUS GOODS BILL 2001**

**Clauses 1 to 3** - were agreed to and stood part of the Bill.

### **Clause 4**

**HON H A CORBY:**

In section 4(2) insert after the words "*prohibited by*" by the following "*or which do not comply with the conditions laid down in,*".

After section 4(2) insert new subsection (3) as follows:

"(3) *The certificates and authorisations required by Annexes 'A' and 'B' shall be issued by such person or persons as the Minister may deem appropriate subject to the conditions required for such issue being complied with*".

Clause 4 - as amended, was agreed to and stood part of the Bill.

**Clause 5** - was agreed to and stood part of the Bill.

### **Clause 6**

**HON J C PEREZ:**

Mr Chairman, I think there is a spelling mistake in section 6(3) where it should say "designate one" and not "designate on", there is an "e" missing, perhaps we might take the opportunity of amending it.

Clause 6 - as amended, was agreed to and stood part of the Bill.

**Clause 7** - was agreed to and stood part of the Bill.

### **New Clause 8**

**HON H A CORBY:**

Mr Chairman, I move that a new clause as follows be included:

“Offences

8. A person who transports dangerous goods or otherwise than in accordance with the conditions laid in Annexes ‘A’ and ‘B’, or whose transport is prohibited, is guilty of an offence and liable on summary conviction to a fine up to level 5 on the standard scale”.

New Clause 8 - was agreed to and stood part of the Bill.

**The Long Title** - was agreed to and stood part of the Bill.

### **THIRD READING**

#### **HON ATTORNEY GENERAL:**

I have the honour to report that the Leisure Areas (Licensing) Ordinance 2001 (Amendment) Bill 2001 and the Transport of Dangerous Goods Bill 2001, have been considered in Committee and agreed to with amendments. I now move that they be read a third time and passed.

Question put.

#### **THE LEISURE AREAS (LICENSING) ORDINANCE 2001 (AMENDMENT) BILL 2001.**

The House voted:

For the Ayes:           The Hon K Azopardi  
                              The Hon Lt Col E M Britto  
                              The Hon P R Caruana  
                              The Hon H A Corby  
                              The Hon Mrs Y Del Agua

The Hon J J Holliday  
The Hon Dr B A Linares  
The Hon J J Netto  
The Hon R R Rhoda  
The Hon E G Montado

For the Noes:

The Hon J L Baldachino  
The Hon J J Bossano  
The Hon Dr J J Garcia  
The Hon S E Linares  
The Hon Miss M I Montegriffo  
The Hon J C Perez  
The Hon Dr R G Valarino

The Bill was read a third time and passed.

The Transport of Dangerous Goods Bill 2001 was agreed to and read a third time and passed.

### **PRIVATE MEMBERS’ BILL**

#### **THE NATWEST OFFSHORE (TRANSFER OF GIBRALTAR UNDERTAKING) ORDINANCE 2001**

#### **HON K AZOPARDI:**

I have the honour to move that a Bill for an Ordinance to make provision for and in connection with the transfer of the Gibraltar undertaking of NatWest Offshore Limited to The Royal Bank of Scotland International Limited, be read a first time.

Question put. Agreed to.

## SECOND READING

### HON K AZOPARDI:

I have the honour to move that the Bill be now read a second time. Mr Speaker, it is a well known fact that RBS bought out NatWest last year in the UK and that has consequences for the Gibraltar operation. Before I go into the details of the Bill in the presentation of the general principles, perhaps a bit of background would be helpful for hon Members.

The Royal Bank of Scotland International is a Jersey-incorporated bank which has branches in each of Jersey, Guernsey and the Isle of Man. NatWest Offshore is an Isle of Man incorporated bank with branches in Jersey, Guernsey, Isle of Man and Gibraltar. It also trades in the Isle of Man as the Isle of Man Bank. There has been discussions in all jurisdictions and the initiative is being brought forward in all four jurisdictions on a similar basis. The intention really is for the banking business of NatWest Offshore conducted in the name NatWest in Jersey, Guernsey, Isle of Man and Gibraltar to be transferred through legislation passed in all four of those jurisdictions to Royal Bank of Scotland International with the enlarged RBSI continuing, however, to operate in each of these jurisdictions using NatWest as a trading name as well as continuing its existing business as RBSI if it conducts business in those jurisdictions as RBSI. The transfer of the NatWest Offshore business in Gibraltar to RBSI necessitates RBSI obtaining a Banking Licence in Gibraltar and post-merger the Branch in Gibraltar will technically be RBSI trading as NatWest. NatWest Offshore will retain all the business presently conducted by it under the name "Isle of Man Bank" in the Isle of Man but will change its name to the Isle of Man Bank Limited and will thereafter continue to trade in the Isle of Man as Isle of Man Bank. As a precursor to the transfer of the NatWest Offshore business to RBSI, it has been proposed and I understand that it is being undertaken for the transfer of NatWest Offshore to be effected from its current immediate parent

company, a holding company incorporated in Holland, to be a direct subsidiary of the RBSI Limited with RBSI Holdings being the ultimate owner of RBSI. NatWest Offshore will therefore become a subsidiary of RBSI Holdings at some point with a share transfer agreement being effected between RBSI Holdings and the Dutch holding company of NatWest Offshore. NatWest Offshore in turn is the parent company of a number of operating companies including Coutts in various jurisdictions as Jersey, Guernsey and the Isle of Man and similar restructuring is being conducted in those jurisdictions to consolidate the operations effectively.

Mr Speaker, the Bank is of course seeking the approval of all regulators in the relevant jurisdictions. There have been discussions, I know, with the FSC in Gibraltar, the Isle of Man Financial Supervision Commission, the Guernsey Financial Services Commission and the Jersey Financial Services Commission which are the current regulators of the RBSI.

Section 2 is the fundamental section of the Bill transferring the Gibraltar Undertaking of NatWest Offshore to RBSI with the transfer effective date intended in all jurisdictions to be the 1<sup>st</sup> January 2002 which is the date of transfer proposed in all legislation in the Isle of Man, Jersey and Guernsey. The transfer undertaking is to be carried out through the medium of a branch with RBSI doing so in all jurisdictions as I have explained before. Section 3 spells out the basic provisions transferring property from NatWest Offshore to RBSI, defining property very widely. I should say also by way of background that this Bill is modelled on the other Private Members' Bills that have been put to the House before. The case of Abbey National restructuring it and transferring it, an undertaking as a result of internal consolidation and restructuring.

Section 4 is an important section excluding certain property transfer. There are four types of excluded property. The first is

in relation to operational land of NatWest Offshore. The second is in relation to licences under the Financial Services Ordinance and Banking Ordinance. The third is in relation to the pension arrangements of the employees at NatWest Offshore and the fourth is description of excluded properties, properties governed by the law of the country other than Gibraltar. This latter exclusion in reality is no more than a statement of an existing rule of international law which is inserted as a result of that.

Section 5 is technical provision dealing with documents which currently refer to NatWest Offshore.

Section 6 spells out the position about existing accounts with NatWest. They will continue as accounts with RBSI subject to the same rights and obligations as before the transfer, including of course, any rights the customer had with the bank.

Section 7 covers a number of specific items which though dealt with in general terms, call for specific mention in that section. Inter alia, there is that provision to make charges and conduct business by reference to existing scales.

Section 8 is a technical provision ensuring the continuation on or after the change of the date of the operation of the Banker's Books Evidence Act 1879 which is the legislation that oversees the business of banking generally in the relevant jurisdictions like Gibraltar.

Section 9 is an evidential provision which relates to documents which come into existence after the change of a date and section 10 provides for the payment of the Government expenditure in connection with the introduction and enactment of this Bill.

Mr Speaker, before I commend the Bill to the House there were several issues which I had and which I put to the Bank before the Government were comfortable about signalling our willingness to present this. One of the things that we wanted assurances about was the position on employment at the Bank and I have had a letter sent to me from the Chief Executive of the Royal Bank of Scotland International which he has agreed that I can disclose to the House which gives relevant information which is of interest to the House. One is that the proposed restructuring is not anticipated to give rise to any redundancies in Gibraltar. There may be a limited number of voluntary early retirements but I understand that they are not connected to the restructuring and indeed that they are optimistic that subject to organic growth there will be no requirement for any other redundancies. I asked them to confirm to me that they are in consultation with the relevant Unions as a result of the possibility of the transfer of undertaking the situation arising and indeed they confirm to me that UNIFI, the Staff Union representing the NatWest Offshore in Gibraltar will be fully consulted about the proposals and any staff implications. I believe that they are represented by Mr Montiel because I understand that the Bank have had discussions with him and that any staff contracts which as a result of legislation are transferred will remain on the terms of conditions applying prior to the legislation. They also confirmed and I will just read that paragraph from the letter because it is of relevance..... "that RBSI level of commitment to Gibraltar is not affected by the restructuring and indeed is strengthened by these proposals. The existing NatWest Offshore Branch in Gibraltar will continue to operate under the trading name 'NatWest' and the Royal Bank of Scotland (Gibraltar) Limited a joint venture between the Royal Bank of Scotland and Banco de Santander will also continue to operate in Gibraltar. In real terms there will be very little change for Gibraltar as all existing business currently conducted there will continue to be conducted in Gibraltar. Indeed, we would hope that after the restructuring both entities will continue to see growth in their respective businesses in Gibraltar". I commend the Bill to the House.

Discussion invited on the general principles and merits of the Bill.

## **COMMITTEE STAGE**

### **HON DR J J GARCIA:**

Mr Speaker, the Opposition will be supporting the Bill. As the Minister has said it is a straightforward measure and it is something which has happened before. We welcome that the Banks do not anticipate any redundancies in Gibraltar and really there is not much more to say. We shall be voting in favour of the Bill.

### **HON K AZOPARDI:**

I am grateful that the Opposition are supporting the Bill because I think it is just putting into effect the restructuring which is taking effect in all jurisdictions. As I read from the Chief Executive's letter I do not think it will have substantial detrimental effect on Gibraltar. Indeed, it will have no detrimental effect and we just look forward to the commitment of RBSI being strengthened in line with the Chief Executive's statement and I hope that indeed they do grow and that they take on further people and create jobs in Gibraltar.

Question put. Agreed to.

The Bill was read a second time.

### **HON K AZOPARDI:**

I beg to give notice that the Committee Stage and Third Reading of the Bill be taken today.

Question put. Agreed to.

### **HON ATTORNEY GENERAL:**

I have the honour to move that the House should resolve itself into Committee to consider the NatWest Offshore (Transfer of Gibraltar Undertaking) Bill 2001 clause by clause.

### **THE NATWEST OFFSHORE (TRANSFER OF GIBRALTAR UNDERTAKING) BILL 2001**

**Clauses 1 to 10 and the Long Title** - were agreed to and stood part of the Bill.

### **THIRD READING**

### **HON ATTORNEY GENERAL:**

I have the honour to report that the NatWest Offshore (Transfer of Gibraltar Undertaking) Bill 2001 has been considered in Committee and agreed to, without amendments, and I now move that it be read a third time and passed.

Question put. Agreed to.

The Bill was read a third time and passed.

**HON CHIEF MINISTER:**

On a point of order. There have been public statements outside of this House and indeed statements inside this House about the giving of notice by the Opposition of a motion. The Government have not yet received a notice of that motion and I think in the public speculation on the matter I would welcome clarification from the Opposition Members whether that motion is being withdrawn or not.

**HON J J BOSSANO:**

No, it has not been withdrawn.

**HON CHIEF MINISTER:**

The reason why I ask, Mr Speaker, is that Government would normally adjourn the House to a date which was of convenience to our legislative programme given that we are now in Government business and that the effect of that might be that the hon Members' motion, which Government have no desire to delay, if the hon Members wish to proceed with it sooner rather than later will be then postponed to the end. If the hon Members wished to proceed with the motion sooner rather than later we could suspend Standing Orders and come back to debate that motion at some convenient date. Otherwise, my intention is to adjourn the House until Monday 3<sup>rd</sup> December because I have to bring a Bill to the House which is not ready and I cannot publish, I have to wait for it to be ready, print it and give seven days' notice. It is really a matter for the Opposition Members. We can suspend Standing Orders and take their motion sooner than that if they want to.

**HON J J BOSSANO:**

Mr Speaker, the motion of which I have given notice uses the only mechanism that is available in Standing Orders for *[Interruption]*

I gave notice to Mr Speaker of the motion, I do not give notice to the Government, I give notice to the House.

**HON CHIEF MINISTER:**

We have not yet been told.

**HON J J BOSSANO:**

I accept that Government have not been told. On the 5<sup>th</sup> November I wrote to Mr Speaker saying I begged to give notice that in accordance with Standing Order 51 I intend to move a substantive motion for the House of Assembly to review the ruling on the procedure for asking questions because my understanding of Standing Orders is that it cannot be reviewed any other way and that there is no appeal against such a ruling and that to challenge that ruling other than to seek a review of the question would be a contempt of the Chair. I am sure Mr Speaker would not want to suspend all of us. *[Laughter]*. Nevertheless, that is the procedure provided. Frankly, I think it is a matter that needs to be cleared up because we need to know where we stand in respect of future Question Times. There is no particular urgency from our point of view and we would see no need to come back especially to do this given that we want to know where we stand in terms of the strategy we adopt for future Question Times. If indeed it is the case as I have already made clear that if it is consistent with Standing Orders that the number of supplementaries can be limited then that can only result in the number of questions being increased in order that the number of supplementaries are consequentially increased. But as long as we have got the position cleared up before the next Question Time, there is no particular urgency from our point of view. We



just want to make sure that we know where we stand in accordance with the rules. We want to abide by the rules.

**MR SPEAKER:**

The motion was received by me but I was told there was no hurry. It will be circulated.

**ADJOURNMENT**

**HON CHIEF MINISTER:**

Although the hon Member has not actually said so but I interpret the Leader of the Opposition's words to mean that he is content for me to adjourn till 3<sup>rd</sup> December and therefore I so move the 3<sup>rd</sup> December 2001, at 10.30 am.

Question put. Agreed to.

The adjournment of the House was taken at 4.20pm on Friday 9<sup>th</sup> November 2001. -

The House resumed at 10.40 am.

**PRESENT:**

Mr Speaker.....( In the Chair)  
(The Hon Judge J E Alcantara CBE)

**GOVERNMENT:**

- The Hon P R Caruana QC - Chief Minister
- The Hon K Azopardi - Minister for Trade, Industry and Telecommunications
- The Hon Dr B A Linares - Minister for Education, Training, Culture and Health
- The Hon J J Holliday - Minister for Tourism and Transport
- The Hon H A Corby - Minister for Employment and Consumer Affairs
- The Hon J J Netto - Minister for Housing
- The Hon Mrs Y Del Agua - Minister for Social Affairs
- The Hon R Rhoda QC - Attorney General
- The Hon T J Bristow - Financial and Development Secretary

**OPPOSITION:**

- The Hon J J Bossano - Leader of the Opposition
- The Hon Dr J J Garcia
- The Hon J L Baldachino
- The Hon Miss M I Montegriffo
- The Hon Dr R G Valarino
- The Hon J C Perez
- The Hon S E Linares

**ABSENT:**

The Hon Lt Col E M Britto OBE, ED - Minister for Public Services,  
the Environment, Sport and Youth

**IN ATTENDANCE:**

D J Reyes Esq, ED - Clerk of the House of Assembly

**DOCUMENTS LAID**

The Hon the Financial and Development Secretary moved under Standing Order 7(3) to suspend Standing Order 7(1) in order to proceed with the laying of documents on the Table.

Question put.           Agreed to.

The Hon the Financial and Development Secretary laid on the Table the following documents:

- (1) Statement of Consolidated Fund Reallocations approved by the Financial and Development Secretary (No 1 of 2001/2002).
- (2) Statement of Improvement and Development Fund reallocations approved by the Financial and Development Secretary (No1 of 2001/2002).

Ordered to lie.

**ADJOURNMENT**

The Hon the Chief Minister moved the adjournment of the House to Wednesday 19<sup>th</sup> December 2001, at 2.30 pm.

Question put.           Agreed to.

The adjournment of the House was taken at 11.50 am on Monday 3<sup>rd</sup> December 2001.

**WEDNESDAY 19<sup>TH</sup> DECEMBER 2001**

The House resumed at 2.30 pm.

**PRESENT:**

Mr Speaker.....( In the Chair)  
(The Hon Judge J E Alcantara CBE)

**GOVERNMENT:**

The Hon Dr B A Linares - Minister for Education, Training,  
Culture and Health  
The Hon Lt-Col E M Britto OBE , ED - Minister for Public Services,  
the Environment, Sport and Youth  
The Hon J J Netto - Minister for Housing

**OPPOSITION:**

The Hon Dr J J Garcia  
The Hon S E Linares

**ABSENT:**

The Hon P R Caruana QC - Chief Minister  
The Hon K Azopardi - Minister for Trade, Industry and Telecommunications  
The Hon J J Holliday - Minister for Tourism and Transport  
The Hon H A Corby - Minister for Employment and Consumer Affairs  
The Hon Mrs Y Del Agua - Minister for Social Affairs  
The Hon R Rhoda QC - Attorney General  
The Hon T J Bristow - Financial and Development Secretary

The Hon J J Bossano - Leader of the Opposition  
The Hon J L Baldachino  
The Hon Miss M I Montegriffo  
The Hon Dr R G Valarino  
The Hon J C Perez

**IN ATTENDANCE:**

D J Reyes Esq, ED - Clerk of the House of Assembly

**ADJOURNMENT**

The Hon the Minister for Education, Training, Culture and Health moved the adjournment of the House to Thursday 20<sup>th</sup> December 2001, at 9.30 am.

Question put.                      Agreed to.

The adjournment of the House was taken at 2.35 pm on Wednesday 19<sup>th</sup> December 2001.

**THURSDAY 20<sup>TH</sup> DECEMBER 2001**

The House resumed at 9.30 am.

**PRESENT:**

Mr Speaker.....( In the Chair)  
(The Hon Judge J E Alcantara CBE)

**GOVERNMENT:**

The Hon P R Caruana QC -Chief Minister  
The Hon K Azopardi - Minister for Trade, Industry and Telecommunications  
The Hon Dr B A Linares - Minister for Education, Training, Culture and Health  
The Hon J J Holliday - Minister for Tourism and Transport  
The Hon Lt-Col E M Britto OBE, ED- Minister for Public Services, the Environment, Sport and Youth  
The Hon H A Corby - Minister for Employment and Consumer Affairs  
The Hon J J Netto -Minister for Housing  
The Hon Mrs Y Del Agua -Minister for Social Affairs  
The Hon R Rhoda QC - Attorney General  
The Hon T J Bristow - Financial and Development Secretary

**OPPOSITION:**

The Hon J J Bossano                      -    Leader of the Opposition  
The Hon Dr J J Garcia  
The Hon Miss M I Montegriffo  
The Hon Dr R G Valarino  
The Hon J C Perez  
The Hon S E Linares

**ABSENT:**

The Hon J L Baldachino

**IN ATTENDANCE:**

D J Reyes Esq, ED - Clerk of the House of Assembly

**DOCUMENTS LAID**

The Hon the Minister for Trade, Industry and Telecommunications moved under Standing Order 7(3) to suspend Standing Order 7(1) in order to proceed with the laying of a document on the Table.

Question put. Agreed to.

The Hon the Minister for Trade, Industry and Telecommunications laid on the Table the Annual Report and Accounts of the Financial Services Commission.

Ordered to lie.

**SUSPENSION OF STANDING ORDERS**

**HON CHIEF MINISTER:**

I beg to move under Standing Order 7(3) to suspend Standing Order 7(1) in order to proceed to the First and Second Readings of Bills.

Question put. Agreed to.

**BILLS**

**FIRST AND SECOND READINGS**

**THE SUPREME COURT ORDINANCE (AMENDMENT) ORDINANCE 2001**

**HON CHIEF MINISTER:**

I have the honour to move that a Bill for an Ordinance to amend the Supreme Court Ordinance to make a new provision for the payment of a fee upon the sale of any ship or cargo by order of the Court, be read a first time.

Question put. Agreed to.

**SECOND READING**

**HON CHIEF MINISTER:**

I have the honour to move that the Bill be now read a second time. Hon Members will be aware that there has recently been in Gibraltar two fleets of ships for the purposes of being arrested on behalf of a claimant by the Admiralty Marshal and the Admiralty jurisdiction of the Supreme Court. The attraction of such activity to the Gibraltar jurisdiction is one that the Government consider is very worthwhile. Ship arrests in Gibraltar provide not just direct revenue to the Government through the court poundage system but indeed also provides much activity in Gibraltar for almost all sectors of the Port and the private sector whilst the ship is here under arrest. The principle objective of this Bill is to

create a framework which will make it more attractive for claimants, principally mortgaging banks, not just to use Gibraltar as a convenient arrest port with passing ships for which we have always done quite a lot of business, but indeed to be sufficiently attracted to the jurisdiction to divert ships from a long way away to Gibraltar in order for the advantages of this jurisdiction to be enjoyed by the litigants. When the second fleet of ships arrived, the Renaissance fleet, the bank involved with that case sought, before bringing the whole fleet back to Gibraltar an indication that there was some possibility of the poundage being reduced. Hon Members may be interested to learn that in the United Kingdom the poundage is 0.5 per cent when the value of the ship exceeds something very low, I think it is £100,000. We have a flat rate of 1 per cent but when one is talking about a large fleet of ships going for an aggregate of 250 or 300 million dollars, 1 per cent and saving 0.5 per cent or even saving a few decimal points, a few tenths of one per cent become the sort of factor upon which banks are capable of making a choice between one jurisdiction and the other. Indeed, an indication was given by the Admiralty Marshal that she would support an application to the court for the fee to be rebated, in this case, there is under very old Admiralty Rules a discretion on the part of the Court to rebate but not in circumstances which were clearly available in these situations. It talks about hardship, well, to what extent can a bank ever be the victim of hardship, and therefore rather than rely on any of that and in any case I do not think it would be the view that was taken that if there was to be a modification in respect of a revenue raising measure it should be provided for in this House on a standard basis rather than be allowed to vary from case to case in the discretion. This is not something that goes into the administration of justice this is simply a question of how much revenue the Crown derives for providing the jurisdiction in which this legal process can take place.

Against that backdrop, the Government bring this Bill to the House. There are several things that I would point out to the hon Members, the first is in clause (1), the citation. Hon Members will see that the coming into operation of this Bill is reserved until Her

Majesty signifies her pleasure thereon by public announcement in Gibraltar and the reason why that is necessary in this case is that under section 4 of the Admiralty Court Act of 1840 which is still extant not just in Gibraltar but indeed in all overseas territories, requires the signification of Her Majesty's pleasure to any alteration to the procedures or rules of the courts of the overseas territories in exercise of their Admiralty jurisdiction as opposed to their other types of jurisdiction, and that is so whether the procedures and rules are changed by the Chief Justice in exercise of his rule making power or whether it is brought about by primary legislation in the legislative assemblies of the overseas territories. The Bill has been submitted for the signification of Her Majesty's pleasure and we do not expect there to be a problem but there is a requirement of that section of that English Act that that procedure be gone through. Clause 2 of the Bill inserts a section 39 which in effect in subsection (1) provides for the fee payable, it is called in common parlance of the legal profession courts poundage, in other words the commission that the crown derives, the percentage of the sale value, the sale proceeds of the ship. Subsections (1) and (2) provide for the fees that will be payable when one just arrests one ship and that is it will remain the current 1 per cent where the value of the ship does not exceed £50 million and thereafter in respect of the excess over £50 million, the excess attracts a poundage at 0.75 per cent. Subsection (3) then makes provision for what are called fleet sales, that is to say where a claimant may have a mortgage for example over, as was the case of the Renaissance and the Abu Dhabi fleet, there was a claim over a fleet of seven, there is a specific regime to provide a reduction in the poundage so that we continue to attract such business as and when it arrives. The regime that it creates is that subject to meeting certain conditions in the definition of what is a fleet sale one aggregates the sale value of all the ships in that fleet so long as they are sold at the pursuit of the same party within a given amount of time of each other. That is regarded as a fleet sale. One adds up all the proceeds of sale as if they were just one ship, one adds them all up together and then one pays the following poundage. On the first £3 million of that aggregated proceeds of sale 0.8 per cent and on the excess over

£30 million it reduces to 0.6 per cent in respect of the excess the first £30 million always being at 0.8 per cent. There is a definition in the Bill of what is a fleet, there is a definition in the Bill of what is a total fleet sale price and subsection (5) then provides, hon members may not be aware that in fact arresting parties have to pay in effect 2 per cent not just 1 per cent, 1 per cent to the Government, to the Crown, as court poundage but then the Admiralty Marshal's Ship Broker who advertises the sale and tries to drum up support in the market for it, for amongst purchases, historically has also taken 1 per cent. This subsection provides that the fee payable by the Admiralty Marshal to assessors, brokers, appraisers upon the sale of a ship shall not exceed the amount payable to the Admiralty Marshal upon the sale of that ship under this section. In other words the broker cannot derive a larger commission, as so to speak, than the Crown derives from any one transaction. Subsection (6) renders the Bill retrospective in order to catch the Renaissance fleet it is made retrospective to the 1<sup>st</sup> November 2001 and subsection (7) repeals the existing part, item 7 of a schedule that there is in the Admiralty Practice Rules of 1989 which presently says that upon the sale of a ship or cargo by the Admiralty Marshal the fee payable should be 1 per cent. That is repealed and replaced by this piece of primary legislation. I commend the Bill to the House.

Discussion invited on the general principles and merits of the Bill.

**HON DR J J GARCIA:**

Mr Speaker, the Opposition understand and are in agreement with what this Bill sets out to do. There is one area where we would like perhaps some information if the Chief Minister has it available and that is, he has mentioned the sale of the Renaissance ships and that that will now be covered by this legislation, we wondered whether he had available the expected revenue to the Government of that sale. The Opposition will be supporting the Bill.

**HON CHIEF MINISTER:**

I do have that information but it may take me a moment or two to extract it from my papers here and I wonder if he might let me give it to him at the Committee Stage? I have just got to tot up the aggregate and do the calculation, the figure that I have is before the amendment which I should have mentioned, I do beg the House's pardon, the amendment that I will be bringing because once the Bill had been drafted it had been spotted that as drafted I had presented my address on the second reading on the principles of the Bill on the basis of what the position will be once I have presented my amendment. As the Bill is presently printed it is not 0.8 per cent on the first £30 million and then 0.6 on the balance it suggests that it is 0.6 on the whole lot so that there is not and then to boot there is a misprint in Roman (iii) it says the same percentage as in Roman (ii), that would just be a typographical error. So I will be at the Committee Stage moving an amendment which will produce the situation that I have described in the Second Reading, namely that of the first £30 million of the fleet price is always at 0.8 per cent and the 0.6 will apply to the whole excess no longer divided into (ii) and (iii), the whole excess over £30 million will then attract 0.6 but the first £30 million always at 0.8. The reason for that is that otherwise it produces anomalies as soon as one gets over the threshold, one could be paying much less for a consideration which is only marginally higher than less than £30 million so if one is just under £30 million one pays 0.8, if one is just over £30 million one pays 0.6, the reduction in commission might actually be less than the difference in the sale price between just under and just over £30 million so this amendment has been introduced. The figure that I have already available to me for how much this is worth to the Government is calculated on the pre-amendment, so I now have to adjust it so that the first £30 million is now at 0.8 and not at 0.6. I will give them that during the Committee Stage.

Question put.                      Agreed to.

The Bill was read a second time.

**HON CHIEF MINISTER:**

I beg to give notice that the Committee Stage and Third Reading of the Bill be taken later today.

Question put.           Agreed to.

**THE TRAFFIC ORDINANCE (AMENDMENT) ORDINANCE 2001**

**HON CHIEF MINISTER:**

I have the honour to move that a Bill for an Ordinance to amend the Traffic Ordinance, be read a first time.

Question put.           Agreed to.

**SECOND READING**

**HON CHIEF MINISTER:**

I have the honour to move that the Bill be now read a second time. Mr Speaker, the objective of this Bill is two-fold although one of the folds is a necessary consequence of the first. The provisions of the Bill as they stand in the section beginning on the front page marked 47(a)(i) under the heading – Driving Or Being In Charge When Under The Influence Of Drink Or Drugs – is the law as it currently stands under the traffic ordinance simply reproduced for the sake of convenience in the layout of the amended legislation. That is the law on Driving Under The Influence of Drink Or Drugs as it stands at the moment and that will remain as part of the law. The purpose of this Bill is to address a problem, a difficulty in the practical enforcement of that

law in that it is heavily dependent on doctors, mobilising up to the police station in order to provide the police with the necessary evidence. The police in turn know that it is on many occasions difficult to get a doctor to mobilise the result of that then is that they take less of an interest in policing this particular important offence because they know it is very difficult to secure the evidence to take the matter to court because of the reliance on a doctor going to the police station to express a view about whether the arrested party was or was not unfit to drive through drink or drugs, the result is a culture where it is thought it is possible in Gibraltar to drink and drive or to drive under the influence of drink or drugs with relative impunity in the sense that it is not a particularly heavily policed part of the law for the reasons that I have just explained.

The objective of this Bill is to enable the police once they have arrested an individual on suspicion and taken him to the Police Station, to provide the evidence through the breathalyser as opposed to having to rely on a doctor being called out. Let us be clear, the Bill does not provide as does the law of the United Kingdom and most countries of Europe, it does not provide for the conduct of random or any breathalyser on the roadside. Hon Members may not be aware from what they see on television and read in newspapers and photographs they see in newspapers, that in England the breathalyser test that one sees people having to do on the side of the road after the policeman has stopped them and sort of tapped on their windscreen and asked them to blow into this, that is only to establish a prima facie case of suspicion to justify the arrest. The person is then taken to the police station where a further breathalyser is carried out and that is the one that the UK police rely on for their evidence in court. We are not proposing to do that in Gibraltar. The police first have to have a reasonable suspicion on other criteria, some of which are set out in the Legislation to suspect that somebody is driving under the influence of drink or drugs. If they then choose to arrest, in that respect there is no change from the present law, and take the person up to the police station, at the police station, or if they are hospitalised following an accident, either at the

police station or at a hospital they may then do the breathalyser to establish the level of alcohol either in the urine, in the breath or in the blood stream, which are the three places where one can measure these things I am informed. At the police station the idea is to make this prohibition in the law on driving whilst unfit through drink or drugs, more enforceable, more policeable and to act as a greater deterrent. I am certain that there is nobody in this House that does not share the objective of protecting not just the youth, the victims of this can be everybody and anybody. People who drink and drive whilst they are unfit to do so through drink, pose a severe threat not just to themselves and not just to their passengers in their own vehicles but to innocent pedestrians and occupants of other motor vehicles on the road. This is an attempt to draw a compromise in that the police will be able to more effectively enforce the law without submitting what is a mainly urban environment and culture into a situation where any of us cannot get into our cars after we have been to our club or to this or to that for fear that there will be a policeman standing round the corner with a breathalyser test which would be a severe disruption. Government will keep this under review, we believe that the ability to obtain evidence in the real cases of serious drinking and driving will be sufficient to enable the police to deal effectively with the problem in a small place like Gibraltar without having to subject the rest of us who may have the occasional drink and then drive to any fear of jeopardy when in fact we may not constitute a danger as such. To achieve that, the Bill creates the new offence which exists everywhere else but has not historically existed here, in section 47 (b) creates the new offence of – driving or being in charge of a motor vehicle with alcohol concentration above prescribed limits – so, whereas before the whole of the law was reflected in 47(a)(1) which means that it was only an offence to driving a vehicle whilst unfit through drink or drugs to drive it or attempting to do so or even being in charge of a vehicle when unfit to do so through drink or drugs, that requires a doctor to go up and make a subjective or from the point of view of the driver an objective assessment of whether that individual was or was not unfit to drive.

Under the new offence which is the same offence elsewhere in Europe, there is an offence of simply driving or attempting to drive or being in charge of a vehicle with more than a prescribed quantity of alcohol in ones blood, in ones urine or in ones breath and the quantities permitted are set out in subsection M of section 47 on page 198 of the Bill and we have in fact chosen the United Kingdom limits, that is 35mgs of alcohol in 100mls of breath or 80mgs of alcohol in 100mls of blood or 107mg of alcohol in 100mls of urine. There are obviously exemptions which are invoked on the issue of a medical opinion to prevent the taking of breathalysers of people under medical treatment when the doctors advise that it would be contrary to the interests of the health or because of a particular condition that they may be suffering or treatment that they might be undergoing for people to be subjected to a breathalyser. There are standard provisions also drawn from corresponding legislation in the UK to entitle drivers to a card of their sample and there are also provisions enabling the driver in certain circumstances to opt for a blood test if he is dissatisfied with the results of the breathalyser test, so there is a series of in-built mechanisms to give the driver certain options and finally I would like to point out to the hon Members that at section 47 (j) on page 196 of the Bill is the provision giving the readouts of these machines, the weight of evidence in a court the read outs of these machines are deemed to be the amount of alcohol that one has in ones bloodstream, section 47 (k) on discretionary disqualifications on driving leaves whether or not a driver is disqualified entirely to the court's discretion on the first conviction, on the second conviction within a six year period, a period of disqualification is mandatory but the length of that period of disqualification remains at the discretion of the court. In both cases whether it occurs on the first or second conviction the length of the disqualification remains at the discretion of the court but a period of disqualification is mandatory on the second conviction in any six year period.



Hon Members may be interested to see at section 47(c) there is list, I told the hon Members earlier, that there was no roadside breathalysing, and therefore the decision to arrest for this offence of driving with more than the prescribed limit of alcohol has to be triggered by some suspicion. There is a list of circumstances which may give rise legitimately to a suspicion on the part of a police officer that the driver of the vehicle is driving under the influence of drink or drugs, page 191 of the Bill at proposed new section 47(c) subsection (3), that list is not exhaustive but it is an indication of the sort of physical evidence of the sort of things that policemen and others might see that might lead them reasonably to the suspicion that the person in charge of that vehicle is driving under drink or drugs thereby justifying the suspicion that leads to the arrest, that leads to the breathalyser eventually being carried out at the police station. I commend the Bill to the House.

Discussion invited on the general principles and merits of the Bill.

**HON J C PEREZ:**

Mr Speaker, anything that discourages drinking and driving the Opposition will support and it is particularly fitting that we should be discussing this around the Christmas period which is regrettably when we get more offences of this nature. It is something that has been in the old Bill and it is something that I would have welcomed to see defined in a better manner and that is the part of the Bill where the person is deemed to be in charge of the vehicle. I know that this has caused problems in the court before because the discretion of the officer in deciding whether the person is in charge of the vehicle is a very wide thing and I do not know whether it can be defined in a better manner to give some guidelines to the officer on how that discretion should be, but I know that it is a challengeable thing in the court and it is something that in many instances, in my view, officers would shy away from using that discretion precisely because it is so open that it is very challengeable in a court of law. As I say it is not something new it is something that was in the statute and in

revising the Bill I thought that it might be a welcome thing to have looked at that. The other aspect of the Bill which I think is the power of the Minister by regulation to change the proportion of the micrograms of alcohol for the purposes of the breathalyser. In my view, since I am sure that the Minister is not going to take a decision of this nature by himself he is going to take advice from experts on the matter and will probably be following a pattern of what is happening in the European Union or something else. It is something that should be brought to the House and the documents justifying the change in the micrograms of alcohol that are going to be used for the breathalyser should be something where Members of the Legislature would have documents supporting and substantiating why those need to be changed for any given reason unless there are circumstances which I do not see in the Bill where there might be a need to do this in a very quick manner for specific cases, although I do not think that is the case.

Mr Speaker, I am glad that the Chief Minister has said that the Government are going to keep this Bill under review because I think there should be coaching and guidelines for police officers in effecting this Bill particularly in its initial stages so that we do not end up having problems of the Bill in its initial stages being successfully challenged in court because we might have been applying it in a manner that might not have been the correct procedure. Certainly the part where an officer requires someone to have a blood or urine test can I think bring a bit of conflict in the relationship there because it is not only the driver that can opt for a urine or blood test, but in some circumstances a police sergeant may be able to require a driver to have a blood or urine test and we have reservations on that particular point in the Bill. The general thing is that I am glad that the Chief Minister has said that he is going to keep it under review because we need to make sure that it does not cause more problems than what it solves. I know the long standing difficulties of having medical practitioners go down to the police station to examine people on suspicion of being under the influence of drink or drugs and not only calling on the police station but indeed later having to

appear in court and give evidence which was the disincentive for going to the police station in the first place because it took a lot of time at a later stage and that this is a manner to perhaps solve that problem in some way. Mr Speaker we support the Bill.

#### **HON CHIEF MINISTER:**

Mr Speaker, dealing with the first point the hon Member made, the provisions relating to the circumstances in which one is or is not in charge of a vehicle which one is not driving follow the UK legislation and there is an advantage in doing that because it means that there is a large body of decided cases interpreting when one is, because it does not mean that one is in charge of the vehicle whenever one is sitting in it with the key in the ignition, the law does say that even though one is sitting in a car one is not liable to being convicted of the offence and the hon Member has seen those provisions replicated here as they were in the original 47 (a) also replicated in 47(b) at subsections (2) and (3) and the advantage of not departing too much from words and phrases that are subject to extensive judicial interpretation and definition in the UK is precisely the reason that the hon Member suggests and that is, that it does provide the guidelines. There are, I do not doubt that there are still factual circumstances that can arise that have not been adjudicated on by a court before but most of the circumstances likely to arise will have been the subject of interpretation by a court somewhere in the United Kingdom and that provides not just guidance for the court once the matter comes before it but indeed provides guidance for the learned Attorney General in deciding whether or not there is sufficient evidence to proceed with the prosecution in the first place, whereas if we try and redefine the concept ourselves we find that we have no guidance whatsoever except the guidance that we ourselves create either in Attorney General's guidelines to the police or putting the legislation ourselves.

The hon Member mentioned the possible difficulties involved, and I think he did recognise, again that this is old law this is not

new law, this business about the taking of blood or urine sample instead of the breathalyser, yes, there will be situations created not just created by the option of the police but by the option of the driver who in certain circumstances has the option or chance to opt for a blood test. As far as the exercise of that option by the police is concerned he knows, I am sure, it cannot be exercised by an officer of less than the rank of sergeant. A police constable cannot exercise the choice of submitting an individual to a blood or urine testing, even a sergeant and above can only do it in the circumstances set out there in section 47(d) subsection (2), (b) which is basically a limited range of circumstances where there is reasonable cause to believe that an accurate breath test can not be obtained. So, by all means these are things that whenever one introduces a new legal regime and legal framework, I think it is important to keep it under review, I am sure that the learned Attorney General will be giving the police guidance, guidelines on the application of this legislation and certainly if the initial experience suggests that the law needs to be tweaked in order to make it more effective or less open to difficulty either for the drivers, either for the citizenry or for the police, in either case then of course the Government will not hesitate to come back to the House and seek the agreement of the House to the necessary amendments. By that comment I think I have also dealt with the point that the hon Member made about the successful monitoring in its initial phases to ensure that the way it is deployed initially does not result in its successful challenge in a way that deprives the Bill of its intended purpose and certainly that will happen. I think that the only other point that he has made relates to the selection or alteration in future of the prescribed limit. I do not know whether the hon Member by reference to sort of manuals and scientific evidence, books, papers and advice suggests that this is a matter of science. I do not think that the prescribed limits and the level at which one sets them is actually a matter of science, I think it is a matter of policy, they are set at a level that reflects the degree of tolerance that as a society one is willing to have of drinking and driving there are some countries in northern Europe I understand where there is now zero tolerance, this would read zero milligrams of alcohol I do not know if that is the case of Sweden, I know that there are

some countries up there which have practically zero or minimal alcohol content probably at the opposite extreme we have the southern European Mediterranean countries where we have a different sort of culture and which could be sustained by a zero tolerance environment and then in-between one has the countries that want to try, I will give way if that is what he wants.

**HON J C PEREZ:**

Mr Speaker, it is not a question of it being scientific or anything else but I am sure that the Minister for Transport in the same way as if I were in his shoes would not think of altering that for any reason other than suggested to him by people either by the police, or because it has been changed in the UK, or because there is a report in the European Union that suggests that the levels are not being effective, it is not that it is complicated or scientific but it must be based on something, not because the Minister wakes up one morning and says I think I am going to either have an ineffective breathalyser test by reducing them or puts them so high that no one can even have a sip of wine before driving a car. It must be based on some advice that he receives and what the Chief Minister is telling me is that really that the pattern is that we are going to follow the UK and we are going to do it by regulation, fine, that is the policy of the Government today or could be the policy of the Government today but what I am saying is that since this is not something that is going to be changed on a daily basis or weekly or monthly basis it is something that would need to be altered for some particular reason, there is no reason why it could not be brought to the House for an amendment and the House told why it is the intention of the Government to amend it. That is the only point that the Opposition is making.

**HON CHIEF MINISTER:**

The second last point that he made is what I was trying to address, that when I said that this was not a matter of science I

was not trying to suggest that it was complicated, what I was trying to suggest is that the level at which one pitches these figures is a matter of policy and the hon Member says rather graphically "you know, the Minister is not going to get up one morning and say today I am going to change the prescribed limit" but in effect as Government and as policy makers that is what happens. There are times when countries decide to change these limits not because of any scientific proof that they need to be raised or lowered because they have invented a new alcohol but rather that the Government decide as a matter of policy that the level of tolerance of drink when one is driving should be lowered, now we have not formed a view we have not even addressed our minds to what that should be in terms of trying to make an independent assessment, we have just said "well, look we will follow the experience of that experienced country in this matter with which we have more or less the closest legal and institutional affinity" which is the United Kingdom, now there is nothing in terms of this Mr Speaker, whether the Government alter the prescribed limit by regulations or whether they bring it by primary legislation is not central to the Bill we can do it either by making it prescribed by principal legislation or preferably and it would be the Government's preference that it should be done if it is to be done by regulations that it should be subject to them being laid and then approved by the House, this is the mechanism that we use in some instances usually in the area of taxation but not exclusively in the area of taxation whereby if regulations are passed it has got to be laid in the House within the prescribed time limit and if they are voted against they fall away. We can do it in either of ways the Government are in no particular desire to want to change this but I understand that this is how it is done elsewhere, this is not drafted like this as a matter of political policy it has just been put in by the draftsman and therefore one way or the other the Government do not have a very strong view as to whether it is done by regulations or by primary legislation or by regulations of the sort that have to be laid and not disapproved by this House.

Question put.

Agreed to.

The Bill was read a second time.

**HON CHIEF MINISTER:**

I beg to move that the Committee Stage and Third Reading of the Bill be taken later today.

Question put.            Agreed to.

**COMMITTEE STAGE**

**HON ATTORNEY GENERAL:**

I have the honour to move that the House should resolve itself into Committee to consider the following Bills clause by clause:

- (1) The Supreme Court Ordinance (Amendment) Bill 2001.
- (2) The Traffic Ordinance (Amendment) Bill 2001.
- (3) The Misleading and Comparative Advertising Bill 2001.

**THE SUPREME COURT ORDINANCE (AMENDMENT) BILL  
2001**

**Clause 1** - was agreed to and stood part of the Bill.

**Clause 2**

**HON CHIEF MINISTER:**

I move the following amendments.

Delete subsections (3)(ii) and (iii) of section 39 and insert new subsection (ii) as follows:-

“(ii) Where the total fleet sale price exceeds £30 million the fee payable shall be the fee payable under subsection (3)(i) above on the first £30 million thereof plus a sum equivalent to 0.6 per cent of the remainder of the total fleet sale price in excess of £30 million”

**HON DR J J GARCIA:**

Mr Chairman, the Chief Minister was going to supply some information regarding the Renaissance at Committee Stage and the Opposition will be supporting the amendments in any case.

**HON CHIEF MINISTER:**

Mr Chairman, the total sale price for all the Renaissance ships was \$604 million, two ships, the little ones as they became known were sold for just under \$10 million each the two of the big ones were sold for \$110 million each, two for \$115 million each and one for \$154 million. The Consolidation Fund will receive just over \$2,5 million using a rough exchange rate from dollars to pounds at 1.45 or something like that.

Clause 2 - as amended, was agreed to and stood part of the Bill.

**The Long Title** - was agreed to and stood part of the Bill.

## THE TRAFFIC ORDINANCE (AMENDMENT) BILL 2001

**Clause 1** - was agreed to and stood part of the Bill.

### **Clause 2**

#### **HON J J BOSSANO:**

Mr Chairman, I beg to move that the Ordinance be amended as follows:

Delete subsection (3) of section 47E and in section 47M (1) delete the comma after the word "urine" and insert a full stop; and delete the words following "or such other proportion as may be prescribed by regulations made by the Minister."

Clause 2 - as amended, was agreed to and stood part of the Bill.

**Clause 3 and the Long Title** - were agreed to and stood part of the Bill.

## THE MISLEADING AND COMPARATIVE ADVERTISING BILL, 2001

**Clauses 1 to 4** - were agreed to and stood part of the Bill.

### **Clause 5**

#### **HON H A CORBY:**

Mr Chairman, I move the following amendments:

Delete heading and the whole of section 5 and insert:

### **Complaints – consideration by Consumer Officer and Designated Persons**

5. (1) The Minister may appoint by notice in the Gazette a Consumer Officer to administer the provisions of this Ordinance.
- (2) It shall be the duty of the Consumer Officer to consider any complaint made to him that an advertisement is contrary to the provisions of this Ordinance, unless –
  - (a) the complaint appears to the Consumer Officer to be frivolous or vexatious; or
  - (b) a person appointed under subsection (3) has notified the Consumer Officer that he agrees to consider the complaint.
- (3) Without prejudice to subsection (1), the Minister shall designate by notice in the Gazette, such persons or group of persons who apply to him for designation and who, in his opinion, have as their sole or principal aim the promotion of interests of consumers.
- (4) If a person designated under subsection (3) notifies the Consumer Officer that he agrees to consider a complaint that an advertisement is contrary to the provisions of this Ordinance, he shall be under a duty to consider that complaint.
- (5) The Consumer Officer or, subject to subsection (6), a person designated under subsection (3) may apply for an injunction (including an interim injunction) against any person appearing to the Consumer Officer or that person to be using, or

recommending use of, an advertisement contrary to the provisions of this Ordinance.

- (6) A person designated under subsection (3) may apply for an injunction only where –
- (a) he has notified the Consumer Officer of his intention to apply at least fourteen days before the date on which the application is made, beginning with the date on which the notification was given; or
  - (b) the Consumer Officer consents to the application being made within a shorter period.
- (7) The Court, on an application by the Consumer Officer or, subject to subsection (6), a person designated under subsection (3), may grant an injunction or such other order on such terms as it thinks fit: without prejudice to the generally of the foregoing, the court may direct the person responsible for any advertising found to be contrary to the provisions of this Ordinance –
- (a) to publish all or any part of the decision of the court,
  - (b) to publish a statement correcting the said advertising,
- in such form and manner, and to such persons, as the Court, in its discretion, may see fit.
- (8) The Consumer Officer or, subject to subsection (6), a person designated under subsection (3) –
- (a) may, if he considers it appropriate to do so, have regard to any undertakings given to

him or to the Minister by or on behalf of any person as to the continued use of such advertising.

- (b) Shall give reasons for his decision to bring or not to bring proceedings as the case may be for an injunction in relation to any complaint which this Ordinance requires him to consider.
- (9) Notwithstanding a decision not to bring proceedings for an injunction under subsection (8)(b) any person may bring such proceedings in his own name .
- (10) An injunction or other order may relate not only to use of particular advertisement but to any similar advertisement, or advertisement having like effect, used, recommended or intended to be used by any party to the proceedings.
- (11) The Minister may arrange for the dissemination in such form and manner as he considers appropriate of such information and advice concerning the operation of this Ordinance as may appear to him to be expedient to give to the public and to all persons likely to be affected by this Ordinance.

**HON DR J J GARCIA:**

Mr Chairman, the Opposition will be supporting the amendments. We welcome the fact that the Minister has looked into the points that we raised when the Bill was originally discussed last month and the Opposition abstained on the Second Reading of that Bill, we will now be voting in favour of that Bill given that the Minister has taken into account some of our suggestions.

**HON CHIEF MINISTER:**

Mr Chairman, we are grateful for the hon Member's support for the Bill but it is important that he does not proceed on a misunderstanding. The amendment is consistent to the point that he made on the Second Reading but does not actually address the point that he was making. The point that he was making during the Second Reading was that he could not support a Bill the enforcement of which was in the hands of a public officer as opposed to being a private legal rights of the complainant, that is the point.

**HON DR J J GARCIA:**

Mr Chairman, the point that we made in relation to this Bill in November was that the 1993 Ordinance gave members of the public the right to take it to court themselves and that the amendments being proposed actually now are done by removing that right and giving it to the designated officer. Even though the Government's original Bill complied with the EEC Law we felt that it removes certain rights to people that exercised or could have exercised previously.

**HON CHIEF MINISTER:**

The Government's policy was based on the experience that actually the hon Member's view is not made out although it is preserved. He will have seen in the amendments that it now leaves both in parallel but the experience was and the reason why my hon Colleague when he was Minister with that responsibility in 1998 alighted on this formula was that in fact since 1993 no one had exercised their rights under the legislation because the average citizen does not wish to incur in the costs or in the inconvenience of taking a business with much deeper pockets to court, and therefore a right, a civic right, a consumer right, which requires the citizen at his expense and at his initiative to take on business is not a civic right at all and therefore the

Government do not agree with the hon Member that transferring the responsibility for enforcement to a public officer at public expense far from being a curtailment of individuals rights was actually an attempt to broaden them in that there would be as there had always been before the previous Government abolished it, the Consumer Protection Officer, there had always been a publicly funded official with the responsibility on behalf of the citizen and at public expense to engage in Consumer Protection Enforcement. The Bill was defective in its drafting and we are grateful for the hon Member the points that he raised at Second Reading gave us the opportunity to discover that even in the respect of what we were trying to achieve the Bill was defective and that has been corrected. For the purposes for those who believe as the hon Member does, although the experience since 1993 does not suggest that it is so, that the individual should retain the right , himself to take action at his own expense, that right is also contained in the legislation so what we now have is a twin-track approach whereby the primary responsibility will be on a publicly funded, publicly appointed officer and only if he chooses not to proceed does the individual then have the right to proceed by himself so that both arguments are addressed by the amendments that my hon Colleague moves.

**HON J J BOSSANO:**

Given that we are all agreeing on this it is peculiar that we should be debating it but let me say that I am surprised that all those policy considerations entered into it because in fact when the Minister agreed to leave the Bill at the Committee Stage he said it was not a matter of policy, he said he did not know why it was there and that the Government had not taken a political decision on this, that is what he said the last time round. Not only have we made them look at what they were doing but we have made them remember why they did it because they had forgotten it when we considered it the first time. I have to say that he may well find that the Consumer Officer has the same experience of not getting any complaints than has been the case since 1993 in

nobody coming forward wanting to be appointed and I can tell him that if he looks back at the long history of areas of things like price control, the amount of actual people coming forward was minimised. Here we are talking about something which is theoretical in the sense that if somebody objects to an advertisement that he thinks is misleading, the normal reaction of a normal average person is that if he feels that the advertising is misleading he will not buy the product and leave it at that and not engage in either complaining or going to court. It is there presumably because we are required to do it by EU Law primarily, all that we have pointed out was that if one creates an official or a body that is able to say to somebody "*No I do not agree with you about your complaint that is misleading*" and therefore it cannot go forward, one is in fact depriving somebody who might in theory have wanted to do it from being able to continue to do it. We are glad that that avenue has not been closed that is all there is to it.

Clause 5 - as amended, was agreed to and stood part of the Bill.

**Clauses 6 to 8 and the Long Title** - were agreed to and stood part of the Bill.

### **THIRD READING**

#### **HON ATTORNEY GENERAL:**

I have the honour to report that the Supreme Court Ordinance (Amendment) Bill 2001, with amendments, the Traffic Ordinance (Amendment) Bill 2001, with amendments, and the Misleading and Comparative Advertising Bill 2001, with amendments, have been considered in Committee and move that they be read a third time and passed.

Question put.

The Supreme Court Ordinance (Amendment) Bill 2001; the Traffic Ordinance (Amendment) Bill 2001; and the Misleading and Comparative Advertising Bill 2001, were agreed to and read a third time and passed.

### **PRIVATE MEMBERS' MOTION**

#### **HON J J BOSSANO:**

I beg to move the motion of which I gave notice, namely:

"This House –

- (1) Notes that the terms of Gibraltar's accession to the European Union were agreed between the United Kingdom and Gibraltar fourteen years prior to the entry of the Kingdom of Spain.
- (2) Considers that any alteration in these terms of membership are exclusively a matter for the Government of Gibraltar and this House.
- (3) Declares that the United Kingdom Government has no constitutional authority to enter into discussions or negotiations with the Government of the Kingdom of Spain to alter Gibraltar's terms of membership of the European Union.
- (4) Calls upon the Leader of the House to transmit the text of this resolution to Her Majesty's Secretary of State for Foreign Affairs and to request of him that he desists forthwith from holding the aforementioned discussions or



negotiations with the Government of the Kingdom of Spain, and gives an undertaking that these will not be resumed.

- (5) Further calls upon the Leader of the House to inform the House of the reply received from the Government of the United Kingdom.”

Mr Speaker, I bring this motion to the House as a result of the information that has become revealed in the cause of Mr Hain's appearance before the Foreign Affairs Committee of the House of Commons and subsequent references that have been made which clearly indicate that the negotiating process which was re-launched in July and the Barcelona meeting and the one that is now going to be held in January, clearly include discussions of our terms of membership of the European Union and in particular our membership of the Customs Territory and our inclusion or exclusion from value added tax and presumably the Common Agricultural Policy. Certainly that is not one of the things listed in the original Brussels Declaration of 1984 and I think it is the first time in the whole period since the Brussels Declaration was made that any British Government has indicated that they considered it a legitimate part of the bilateral discussions under that particular agreement, it seems to be, in fact, extending the scope of the agreement.

In the first point of the motion I recall the fact that we were given choices prior to the 1<sup>st</sup> January 1973, that is to say, the Government of Gibraltar, the Peliza Government that was there at the time was consulted by the British Government and the Opposition was consulted by the Gibraltar Government in turn as to what was the best way to go into the European Union or indeed whether to go in at all. It was left to us really, to say to the United Kingdom what it was we wanted very much in the same way as it was left to Jersey, Guernsey and the Isle of Man. I think the simplest way of describing it was that at the end of the day in simple layman's terms, we actually went in for the things that they had stayed out of, and they had gone in for the things

we had stayed out of, and I think it reflected both our geography and our own particular economic structures. Although there has been on occasion a minority view in Gibraltar that we might be better off inside the Customs Union and all the rest of it, it has been very much a minority view, but if in any case we ever decided that that was what we wanted, I think the right way to go about it is for us to have a debate here, to consult in particular the business community who are going to be the people in the front line of any changes in these conditions of membership and then for the initiative from Gibraltar to the United Kingdom and not the other way round. As it so happens because there was an early election in 1972 the process that was started by Bob Peliza's Government was actually finished by the AACR and the Bill came to the House in November 1972 and it was one of the first pieces of legislation that I had to consider as a newly elected Member in this House 29 years ago, and in the cause of that there was quite a lengthy debate in the Committee Stage about concern that the United Kingdom might be able to extend things to Gibraltar and that this could be done by regulation by the Governor without the House being involved and a commitment was given at the time by the Government that in fact there would be informal consultation and there was during the course of the debate informal consultation and particularly there was discussion with the Attorney General were Opposition Members were worried about some of the wording there, although the bulk of it was in fact identical to the United Kingdom 1972 European Communities Act. In looking at that it seems to me quite extraordinary that there is any need at all, I would have thought the thing was crystal clear now in our own minds, and crystal clear in the minds of the United Kingdom Government although sometimes they say things which suggest that they do not remember what it is that they have said previously within very short spaces of time, we only have to look at the statement in the House of Lords made very recently, that the United Kingdom's legislation to enfranchise Gibraltar has nothing to do with anybody else and compare it with what Mr Hain had said a couple of weeks earlier. So, presumably if they have forgotten something in three weeks it is not strange that they should have forgotten something that has been there 29 years ago, but I can

tell the House as somebody that was involved at the time that there was a very clear understanding in this House that our membership of the European Union was something that the United Kingdom would not foist on us any changes, that any changes would be a matter that would be raised by the United Kingdom with Community partners if we initiated a process requesting that that should happen. In fact, the provisions in the Act of Accession themselves actually say that the Common Agricultural Policy and the Value Added Tax do not apply in Gibraltar unless the Council acting unanimously on a proposal from the Commission provide otherwise, so the actual Act itself does not protect Gibraltar, we have no veto in this but the veto is the commitment of the United Kingdom that since it requires unanimity they would not agree to a proposal from the Commission if that proposal does not enjoy the support of Gibraltar.

In the case of the actual Customs Union as far as I can tell, our position is even more enshrined, we are listed as not being part of the Customs Territory and it is interesting that on the 10<sup>th</sup> of this month in answer to a question in the House of Commons the United Kingdom Government told Lindsay Hoyle that the treaty establishing the Community defines the area of the customs Territory and that a number of areas are excluded which is not just us. It is the Faroe Islands, the Islands of Eligaland and the territory of Busenjen, Ceuta and Melilla, the French Overseas territories, the municipalities of Livinjo and Campione Italia and the national waters of the lake of Lugano that are between the bank and the political frontier of the area between Pompetresa and Pomteceresio and then it says that in addition it does not apply to territories for whose external relations the Member State is responsible such as Gibraltar, well in fact we all know not only such as Gibraltar, Gibraltar is the only one. All these areas that are mentioned there are territories that joined the Community on that basis and it would be totally unacceptable that one negotiates terms of membership in the European Community as it was known then, in the European Union as it is now and that the other party in breach of what was agreed unilaterally changes what one wants and of course it is even less acceptable that that

should be as a result of bilateral negotiations between the United Kingdom that is the Member State responsible for us in the European Union and the Kingdom of Spain that is not the Member that is responsible for us and has no particular right to be consulted or to be involved in any discussion or negotiation on this basis and I hope that therefore the terms of the motion enjoy the support of the Government and reflect the same views that we have expressed on behalf of Opposition Members and I am sure that the view that the House had at the time as I said on the 29<sup>th</sup> November 1972 that we were agreeing something that was casting tablets of stone unless we wanted to change it. Obviously I am assuming throughout my speech in support of the motion that this is not something the Government of Gibraltar have asked the Government of the United Kingdom to do I am taking that as read. I commend the motion to the House.

Question proposed.

#### **HON CHIEF MINISTER:**

Mr Speaker, he would have avoided whatever risk he thinks there might have been in his having read it wrongly if he had asked us before he published his motion. Before I come to the terms of motion it gives me an opportunity to express, to say some things about Common Customs Union generally, the Government would not support the alteration of Gibraltar's status in relation to the European Union in terms of Customs Union and it is regrettable that, well it is not regrettable that there are those in Gibraltar who have a different view, one must never regret the fact that there are views which one does not agree but what I think is regrettable is that those views may be articulated to Gibraltar's detriment without the person who makes or holds those views actually having thought through the economic consequences of those views. It is all very well to say "*Gibraltar should be in the Common Customs Union because that way we are more in the heart of Europe and we are less out and Spain has got one less thing to complain about*" fine, but the economic consequences of

Gibraltar being inside the common Customs Union are very, very considerable not just to Government revenues but also to the competitiveness of large sectors of the private sector and I think that people that express these views ought to inform themselves about the extent of the horizontal consequences of the views that they are expressing, for example, in that the Government collect today an import duty in the figure of the order of £30,000,000 a year, well that is a significant chunk of total Government revenues upon which public services depend, if those who advocate the entry of Gibraltar into the Common Customs Union presumably understand the consequence of that to that source of revenue for the Government and presumably understand the consequences to this community economically of the loss of that source of revenue to the Government, economically and socially to that loss of revenue stream to the Government. Therefore, it is important that things are debated in Gibraltar not only by reference to their political value or lack of political value as the different opinion strands would have it but that the ability of Gibraltar to sustain the consequences of a particular point of view economically and socially should also be given due prominence and due weight when these are not debates that can take place in isolation from the realities of their economic consequences. But of course no one has said explicitly that a change in the status of Gibraltar in relation to the Common Customs Union is on the cards but it has been implied and for people, and this is in a sense it would be better to have said so clearly and not expect the citizen to decipher technical expressions, when somebody says "*let us do a deal which amongst other things will result in a free flow of goods*" let us be clear a free flow of goods can only result in physical practice if one is part of a single market in goods and the view that the United Kingdom has always defended is that one cannot be part of the Single Market in Goods without being part of the Common Customs Union. Indeed we are currently outside of the Single Market in Goods only because it is thought to be the natural consequence of being excluded from the Common Customs Union and so this phrase "free flow" in goods carries with it the implication of a change in status in Common Customs Union and certainly hon Members may have heard how I chose to answer this question in the

Foreign Affairs Committee, I did not want to get bogged down in deeper detail of this matter, I limited myself on that occasion to saying that any change in Gibraltar's Customs status in the EU would have significant adverse consequences given how the economy of Gibraltar is currently orientated and that is all that is basically euphemism for the fact that there are revenue and competitiveness issues here which cannot be overlooked by those who advocate for Gibraltar's inclusion in the Common Customs Union.

Mr Speaker, the Government share the views expressed or reflected in the motion in so far as its substance, meaning and effect is concerned but we do not feel we can share, we can agree the language or the terms in which it has been articulated. We agree with the hon Members that Gibraltar's accession to the European Union were agreed between the United Kingdom and Gibraltar 14 years prior to entry of the United Kingdom, we agree with the sentiment expressed by the hon Member that the change of Gibraltar's status in the United Kingdom should first of all be initiated by us and he will see when he sees my proposed amendments that actually my amendment uses that very phrase, but there are elements of the language in the hon Member's which we consider that we are unable to support or indeed inappropriate, for example, I would not wish to so quickly make a legalistic judgement on whether the United Kingdom has or has not got Constitutional Authority, that is a matter of law. I prefer to keep this on a political plain whether the United Kingdom as a matter of United Kingdom law has the ability to do this is moot they would argue that they have, many in Gibraltar would share their view. We do not believe that it is appropriate in a motion in this House to demand an undertaking from the Foreign Secretary we believe that the House should limit itself to expressing what its view of life is on this issue and for that purpose I would like to propose some amendments to the hon Member's motion although I have retyped the motion that is not because there is one of those amendments of the every word after the House type it is simply for convenience, the hon Member will see that in some parts of the amended motion the language remains as the hon Members have drafted it, in other parts it is the same

substance but recast in different language and I would hope that the hon Members can support the amendments.

Mr Speaker, the hon Members will see that the amended wording we are proposing is as follows:

“This House –

- (1) Notes that the terms of Gibraltar’s accession to the European Union were agreed between the United Kingdom and Gibraltar fourteen years prior to the entry of the Kingdom of Spain.
- (2) Considers that the possibility of any alteration in these terms of membership should only be initiated by a request from the Government of Gibraltar and then dealt with bilaterally between Gibraltar and the United Kingdom, subject to the subsequent approval by all the Member States of the EU to any required amendment to the Treaty Establishing the European Community and the UK’s Treaty of accession thereto.
- (3) Notes persistent media reports that current Anglo Spanish discussions may include the alteration of Gibraltar’s terms of membership of the European Union AND CALLS ON the British Government to desist from such discussion of this issue.
- (4) Calls upon the Leader of the House to transmit the text of this resolution to Her Majesty’s Secretary of State for Foreign Affairs and to inform the House of any reply that he may receive.”

The extra four lines in (2) are really an attempt to make it legalistically accurate. The point being made there is that the process of initiating the position of whether our status in Europe should change is a bilateral matter between Gibraltar and the

United Kingdom and if there is then a need to change the EC Treaty, that might require the consent of all the other Member States. In (3) “Notes persistent media reports” I may wish to amend by an amendment in the sense that it is slightly more than persistent media reports by implication as I have just explained it is implicit in some of the things that Mr Hain has said I would certainly be happy to alter the language to reflect that fact. Hon Members should not assume that a reply will be forthcoming. *[Interruption]* Well I think we should receive one as well but the language of the motion should not assume that we will receive one.

**HON J J BOSSANO:**

On the last motion we passed where in fact my original text called upon the Chief Minister to take it up with the British Government and it was amended by the Government to read the Leader of the House, he did get a reply which he circulated to all of us.

**HON CHIEF MINISTER:**

Yes, there was a previous one, another one in which Mr Hain answered in Parliament that in fact the letter sending him the motion did not call for a reply. I cannot remember which one, there was one, because it did not ask for a reply one was not given. As I said, I am happy to add to new paragraph (3) words to reflect that this is not just persistent media reports but that it is remarks by the Minister of State I do not know if the Foreign Secretary himself has made any remarks that would suggest that but certainly Mr Hain’s reference to free flow of goods carries that indication with it and I am certainly very happy to introduce that. The hon Members can see that the principle amendments are that we exclude this declaration as to whether or not there is Constitutional authority which are legalistic issues and that we add in paragraph (2) this idea that should there be a requirement to alter the treaty then all the Member States may have to give their consent to it but that is the extent to it, that Spain should

have no bilateral role with the United Kingdom in any decision to initiate, still less to negotiate the alteration of our status and I notice that in his oral presentation of his motion the Leader of the Opposition himself used the phrase that the process should only be initiated by us and in fact that coincides with the Government's view, as reflected in the written amendment which I have submitted. I commend the amendment to the House.

Question proposed.

**HON J J BOSSANO:**

Mr Speaker, obviously we want to come out with a unanimous decision on this issue because we want to send a strong message back to London and therefore I would like to argue some of the points that have been raised in support of the amendment given that the opening remarks by the Chief Minister was that in principle everything that they had said was something that was shared, when I moved the original motion.

Let me say that this question that in part (3) the statement that the United Kingdom has no Constitutional Authority may not be one that everybody can agree with, well I find that extraordinary because I am not talking about the United Kingdom's authority to change our terms of membership by going as the Member State responsible to the European Union, I am talking that they have no Constitutional Authority to negotiate with the Government of the Kingdom of Spain to alter our membership. Are we saying then that the United Kingdom we believe is free under our Constitution to negotiate with Spain? I do not think they even require to do it by the terms of the Brussels Agreement, they know the things that are listed, military co-operation, economical co-operation, tourism, the United Kingdom did not enter in 1984 into an agreement with Spain nor was Spain seeking such an agreement in 1984, nor was it ever suggested in all the debates we had about Brussels in those years that part of the commitment entered into was that they would negotiate our

membership of the European Union and therefore it could be argued that Constitutionally the United Kingdom as the Member State responsible for our foreign affairs is not required to act on an initiative from us and may be technically, legally, notwithstanding the commitments that we have been given to the contrary, may be legally capable of taking an initiative in the European Union of proposing to other Member States without asking our permission. I would certainly not say that that is true of them having the right to negotiate with the Kingdom of Spain or with any other individual because they are the Member State responsible for us in the European Union not anywhere else, so I think if Members read the text of the original (3) I am simply declaring and I believe this House should declare whether others agree with us or not, this is a declaration of our position and our position I believe ought to be that they have not got any rights to be negotiating with Spain. The Constitution does not give them that right to negotiate with Spain our terms of membership. It may give them the right as I say to change the membership inside the European Union with the agreement of the other 14 members and that they have not got a Constitutional obligation to act on our behalf at our request, at least not under the current Constitution they may well do under the next one. I think removing that from there I hope the Government will be able to consider that point again in the light that I am drawing their attention that it is exclusively in respect of Spain that I am making the Constitutional point.

The other thing is that "calling on the British Government" seems to me to be weaker language than that of the original one and I do not see what is wrong with us seeking an undertaking from the British Government, I would expect the Government to seek such an undertaking anyway and therefore if the undertaking is requested by the House rather than by the Government then let them either give in to us or not give in to us but, if we just call on them to do it they can choose not to answer the call, ignore the call but not come clean. I think at this stage in our lives with a scenario of six months, the last thing we want to do is give the British Government escape holes. The reason for seeking the undertaking is because of course we do not believe they have

any right to be doing it, we believe statements by the Minister have given a clear indication that they are doing it, and we want to tell them to stop it and calling them to desist in my view is weaker language than the one that we had in the original but I think that the most important one is that there should be an undertaking given that they will accept what we want and if they do not want to accept it then let them come back and tell us "no, you may want it but the answer is no we are going to carry on doing it," but it is better to know it.

In respect of the point as to "we should not take it for granted that the Leader of the House will receive a reply", well I think we should take it for granted and particularly in the light of what the Chief Minister has said that the last statement by Mr Hain in the House of Commons was that he did not give us a reply the last time because we did not ask for one, so now that we are asking for one he will give us one. I think that if we write to the Foreign Secretary on such a serious matter and we are asking for undertakings we are perfectly entitled to expect that the Foreign Secretary will give an answer, yes or no. I think he cannot simply ignore what we are asking him to do. If they are not acting unconstitutionally they are certainly on the edge of acting unconstitutionally by doing this and uncertainly they are acting in breach of the understandings reached 29 years ago and on the basis of which this House passed the original legislation. We must not forget that. In this House when I voted on the 29<sup>th</sup> November 1972, I voted with a very clear indication that the commitment of the United Kingdom was that we were getting the terms that we wanted and that it would be up to us at any time in the future if we wanted any of those terms changed not that they had the right to go off to our next door neighbour and agree something else with them and impose it on us, or secretly impose it on us, or put it to a referendum to us or anything else.

One final point, Mr Speaker, which I think is important to us is that the reason why I put that it is exclusively a matter for the Government of Gibraltar and this House and that is not reflected in the second point which is that it should be initiated by a

request from the Government of Gibraltar but I would hope that in a matter such as this the Government of Gibraltar would not want to initiate such a request without having discussed the matter here previously. This is not something that just affects the four year term of a Government and as I say when we went in it was done with the involvement of both sides of the House and in particular it is significant that the process was started under one Government and completed under the other and when Bob Peliza was in, the negotiations with the UK were something about which the Opposition was kept informed and when Sir Joshua was in vice versa. It was in fact decided not to do it across the floor of the House it was done informally but it meant that when the Bill came to the House there was unanimity on it because everybody's views had been taken into account. I would expect any changes towards to what was done in 1972 to follow the same pattern and therefore I will ask that the second clause which talks about "*should only be initiated by a request from the Government of Gibraltar*" that that should contain a reference "*to after consultation with the House*" although I do not want to suggest words which indicate that the Government are bound to bring it to the floor of the House or have a debate here if they may well prefer, on the last occasion it was agreed that it was better not to look at different options in public and not to consider the consequences or the benefits of one doing one thing or the other but to discuss it internally, informally and then the Government of Gibraltar would put to the United Kingdom the position of Gibraltar and that is how it was done prior to 1972 both before and after the elections, the elections which I think was in July came in the middle of this process but of course that there was a change of Government changed nothing because before the elections both sides were already involved in the process. If the Government indicate their willingness to take account of some of the points then clearly we would be happier with the result than if they want to stick with the amendment as it stands.

**HON CHIEF MINISTER:**

I am glad that the hon Member has made and accepted the point that consultation is one thing and ultimate responsibility is another and that one thing is the responsibilities of the Parliament and another is the responsibility of the Government which cannot be aggregated to or mortgaged to the position of any Opposition, and I am not talking about this Government or that Opposition. Any Government and any Opposition. The language that we had chosen was intended partly, I could have said "should only be initiated by a request from the Government of Gibraltar and then dealt with bilaterally between the Governments of Gibraltar and the United Kingdom", it does not. It talks of the Government of Gibraltar in the initiation and then talks about Gibraltar and the United Kingdom leaving the institutions unspecified but so long as it is clear that the process of taking the matter forward is only one in which the Government should consult I accept Gibraltar's status in the European Union should not be changed except by the consent of this House indeed another thing is whether the hon Member is trying to say, "well look the Government cannot even legitimately probe, explore, discuss unless it has shared its plans with the Opposition and consulted them on it." I mean there is a sense in which Government and this discussion is entirely hypothetical, hon Members have already heard my views on changes of Gibraltar at least in as far as Common Customs Union, the Government have no objective desire or plans to initiate any such request but if a future Government were minded to initiate such request I am not sure that it would be right to constrain them and to lumber them with the need to have to have shared their views with the Opposition from the very day go. Even whilst it is still completely casual, informal, just probing the British Government to see whether there is any mileage in it the Government in effect has been obliged to raise, to fly the kite locally by having consulted and made it a local issue. That would be my only concern in the choice of language so I would be happier, I will give way to him, I will be happy to introduce the element of "consultation" after the words "Government of Gibraltar" of consultation with the House if we can find some way of qualifying

the first part of it so that it only kicks in once there is formal request or Government policy to seek it as opposed to some research, or some investigation, or some enquiry, I do not know if perhaps we are capable, I hope that we should be capable of alighting of a formula of words that injects the concept of consultation with this House whilst at the same time leaving a future Government free to at least do some preliminaries and the obligation to consult only kicks in once they decide that it is a starter or once they decide that they want to pursue it or things of that sort. I will give way to him before responding on the other.

**HON J J BOSSANO:**

Yes, Mr Speaker, I agree entirely with that distinction. What I am talking about is before a formal process is started between the Government of Gibraltar and between the Government of the United Kingdom saying "we will not allow, you are not going down the route of doing this." This does not mean of course that the Government are not free at any time that they want to fly a kite, or commission a report, or look at the possibility and then decide that they do not want to go ahead with it. There will be no need to consult with anybody else in my view but if the Government came to the conclusion that there was a serious possibility of changing our position in the European Union I do not think they should go ahead and do it and then we get an opportunity to say what we think about it or whoever happens to be in Opposition gets the opportunity after the event when the situation may not be rescuable. I think there should be an opportunity to have an input before irremediable action is taken so that is really what I am seeking to do here and that is what I was trying to convey in the original one by saying that it is a matter for Gibraltar and the House because what I am making a matter for Gibraltar in my original one was the actual alteration not the initiation. The initiation is in the context in which the Chief Minister has said it.

## HON CHIEF MINISTER:

On that basis I will, at the end of my address amend my paragraph (2) to read "*that the possibility of any formal process for the alteration in these terms of membership should only be initiated by a request from the Gibraltar Government after consultation with this House.*" The real politics of it in terms of the external is in the next words "*and then dealt with bilaterally*". Mr Speaker, I will want to introduce something in paragraph (3) to make it more than just persistent media rumours. As to whether the word "*calls on*" is not strong enough, I am happy to entertain suggestions to strengthen the concept of calling but of course, from calling to demanding that the Foreign Secretary gives us an undertaking I think as a matter of form if nothing else it is demanding an undertaking from the Foreign Secretary, if one demands an undertaking from a Secretary of State one is almost preventing him from giving it even if he were minded to do. If I were the Secretary of State and some colonial legislature demanded from me an undertaking even if I was predisposed to giving it I might take the view that I cannot be seen to be responding to demands for undertakings, it is just unconventional methodology, but fine I am prepared to accept the principal and the essence of what the hon Member said is that "*calls for*" is insufficiently robust and I am happy to explore with him any formula that would strengthen the concept of "*calling*" and notes persistent rumours and expresses its view to the British Government in the strongest terms that the British Government should desist from. I am happy to entertain suggestions to strengthen the concept of "*calling*" but not willing to consider the concept of demanding and undertaking from the Secretary of State.

I honestly believe that the hon Member is misreading the effect of his own paragraph (3), he and I may agree and indeed we do because it remains explicitly stated in the Government's own proposed language that the United Kingdom should not negotiate with Spain or any other country bilaterally for that matter Gibraltar's European status. I would feel equally aggrieved by I suppose from a legalistic and constitutional prospective we

should be equally aggrieved if they tried to do this bilateral negotiation with France. From a constitutional point of view the same issues arise as the hon Member well knows. The hon Member should not try and suggest that the point that we are making does not mean that we think that it is right that the United Kingdom should negotiate bilaterally with Spain on this issue, we are saying the contrary in our own motion, but it is not a matter of Constitutional Authority whether the United Kingdom has the means of imposing it on us Constitutionally or not, legal question, whether or not the United Kingdom politically should, or morally should or should not is a different question but the United Kingdom's willingness and ability and freedom to sit down and in fact do this which we think they should not, is not a matter of Constitutional Authority it is not a matter of Constitutional Authority as to whether the United Kingdom does indeed, in fact if it does, it is not in breach of any Constitution. That is the point that we are trying to avoid making which we converted into the political point of saying, "*look it should be initiated by us, if we initiated it should be carried forward bilaterally between you and me to the exclusion of everybody else unless you need their signature on a treaty amending, and that applies equally to all the Member States,*" and that is the way we think this should be done. Now we do not think that that is properly or accurately either politically or legalistically conveyed or reflected by a declaration that the United Kingdom that it has no Constitutional Authority to enter into discussions or negotiations with the Government of the Kingdom of Spain or anybody else. The reference to the Kingdom of Spain there is legalistically and constitutionally irrelevant, the statement has to be true if one replaces it with the Government of the Republic of France. That is the only distinction that we are seeking to make and we have tried to alight on language that we believe is accurate. If the hon Member were wanting to weave into this motion somehow the assertion as a matter of the proper interpretation of our Constitution that the United Kingdom is legally, now this is a Constitutional Lawyers debate, that the United Kingdom Government is legally by the terms of the Constitution and the letter of dispatch that accompanied it, prevented from altering Gibraltar's EU Status which is an international treaty without the



consent of the Government of Gibraltar, I have to tell the hon Member this that much as I would like that to be the position, much as I believe it should be the position, wearing my lawyer's hat I would have to say to the hon Member that he should not proceed on the basis that he has an open and shut case let me put it no more strongly than that and therefore we believe that this House will be better serving the interests of Gibraltar if we deal with this politically rather than try to make unsustainable legalistic assertions which can be readily dismissed as being a legalistic nonsense thereby depriving the motion of its political value and significance.

I think I have dealt with the hon Member's points, if he thinks that the use of the word "*considers*" at the beginning of paragraph (2) is too weak in a sense what I am saying to him is that I accept his point on "*consultation in the House*" I am happy to strengthen the "*calls on*" to some other stronger sentiment and there is one more point and this is about the answer. Let us be serious about this whether the Foreign Secretary answers or not is not something which is in my control, I am happy to write in language which asks for an answer, I am happy to say "*calls upon the Leader of the House to transmit the text of this resolution to her Majesty's Secretary of State for Foreign Affairs in manner that seeks an answer*" I am prepared to say in the covering letter and I look forward to your reply or please do let us have your reply, I am willing to call for an answer what I am not willing to do is use language that presupposes that there will be an answer. I do not think that he should join issue with me on that it is just a matter of semantic logic.

**MR SPEAKER:**

The thing is that I do not know what the amendment is, so far there is no amendment to the amendment there is none, there is only an amendment which should now be voted on.

**HON CHIEF MINISTER:**

It has just been pointed out to me by one of my Colleagues that in fact whereas the hon Member thinks that "*calls upon*" is too weak, he actually used the words requests, I do not know if that is any stronger?

**HON J J BOSSANO:**

Well, then why did the Chief Minister not take it away?

**HON CHIEF MINISTER:**

Well no, it is not because we have restructured the sentence that is all. The hon Member went on, he requests him to desist and give an undertaking that these will not be resumed. We were only wanting to deal with the "*undertaking*" part of this whether we use the words "*requests or calls upon*" that has just appeared that way because the sentence was being re-struck so I do not know what his position is now .

**MR SPEAKER:**

I do not know what the actual amendments are.

**HON CHIEF MINISTER:**

Mr Speaker, I am prepared to put forward the amendments that I am happy with hoping the hon Member might have signalled his views. I am willing to introduce before the word "*alteration*" on the top line of paragraph (2) the words "*formal process for the*" and then after the word "*Gibraltar*" were it appears for the first time in that paragraph add the words "*after consultation with this House.*"

In paragraph (3) I am happy to move that that should read *“notes remarks made by the Minister of State of the Foreign Office and persistent media reports”* implying, no, *“notes persistent media reports and”*.....

**HON J J BOSSANO:**

Will the Chief Minister give way? Let me say that the amendment to clause (2) are fine. That is the point that we are making. In clause (3) the arguments that were used for changing was that we were demanding of the Foreign Secretary an undertaking and that if we are demanding the undertaking then that is almost ensuring that we will not get one and in fact it is only in the last minute that the Chief Minister has realised that they were not demanding anything we are requesting and I suppose if we humbly beseech to have an undertaking then he will not take offence of us growing too big for our colonial shoes but I think it is desirable that we should make it clear that we want a commitment that they will not carry on not simply ask them not to carry on. I think if *“undertaking”* is considered to be too much to expect of him then I suggest words along the lines taking into account what has been said by the Chief Minister that (3) should read *“notes that public statements attributed to Ministers indicate that the possibility of a change in Gibraltar’s terms of membership is being considered in the current Anglo-Spanish discussions”* because I think an important thing is that if we take the amendment that has been made to paragraph (2) where as if we take paragraph (2) to be the antithesis of discussing the Anglo-Spanish process on the basis that it is not a Gibraltar initiative then of course by restricting the scope of (2) by saying it is only the possibility of a formal process that is the one that we discuss in the House, then I think that limitation should not apply to them discussing it with Spain. From our point of view the Government of Gibraltar is free to explore whatever they want with the UK and if there is something formal we would expect to be consulted but the UK is not free to do the same exploration with the Kingdom of Spain as it has the right to do with the Government of Gibraltar, so I think we would like to see in clause

(3) a reference to the possibility of a change in our membership currently having been considered in the Anglo-Spanish discussion and then perhaps ask him in his reply to confirm whether such discussion has taken place and to confirm his agreement that the matter will not be pursued any further rather than use words like *“undertaking”* or anything else but I think it is important not only that perhaps to seek or get an official confirmation or denial, the Foreign Secretary presumably could write back and say *“no we have not discussed any such possibility with Spain”* so maybe we should ask him to confirm or deny what has been said and that if he confirms it to confirm his acceptance of the request that we are making by calling on him not to desist. Really I do not think that the Foreign Secretary can feel obliged by language like that to have to say no. The purpose of the original thing was in fact to request an undertaking on the basis that we are asking him to do something that we want to know if he is going to do it or not.

The House recessed at 11.45 am

The House resumed at 11.55 am

**HON CHIEF MINISTER:**

Mr Speaker, there has been circulated a clean version of our amendment with further amendments endorsed upon it which the Leader of the Opposition has indicated to me they would agree to. I move that the amended motion be further amended to read as follows:

“This House –

(1) Notes that the terms of Gibraltar’s accession to the European Union were agreed between the United Kingdom and

Gibraltar fourteen years prior to the entry of the Kingdom of Spain.

- (2) Declares that the possibility of any formal process for the alteration in these terms of membership should only be initiated by a request from the Government of Gibraltar after consultation with this House and then dealt with bilaterally between Gibraltar and the United Kingdom, subject to the subsequent approval by all Member States of the EU to any required amendment to the Treaty Establishing the European Community and to the UK's Treaty of accession thereto.
- (3) Notes persistent media reports and remarks by Mr Peter Hain, FCO Minister, implying that current Anglo-Spanish discussions may include the alteration of Gibraltar's terms of membership of the European Union AND CALLS ON the British Government to clarify whether this is the case, and, if so to desist from such discussion of this issue.
- (4) Calls upon the Leader of the House to transmit the text of this resolution to Her Majesty's Secretary of State for Foreign Affairs in manner that seeks an answer and to inform the House of any reply that he may receive."

Question proposed.

**HON J J BOSSANO:**

I think it is very important that we do not allow the United Kingdom Government to get away without clarifying the position and without giving us a formal reply and without not being in a position to inform the people of Gibraltar of what is the state of play. One point that I think needs to be emphasised is that it is quite obvious from the nature of the debate that the United Kingdom Government have not informed the Government of Gibraltar of what it was up to and that therefore if we get clarification now we will be getting clarification on this and our

initiative and I think it is bad enough that the United Kingdom Government should take it upon themselves to enter into such discussions with Spain and frankly it is adding insult to injury that they should do it and not even have the decency to tell the Government of Gibraltar what they are up to and the Government of Gibraltar should have to rely on press statements and that is not acceptable and I think it should be recorded as our view.

Question put. Amended motion carried unanimously.

**ADJOURNMENT:**

The Hon the Chief Minister moved the adjournment of the House sine die.

**MR SPEAKER:**

Before that we have got matters to be raised on the adjournment.

**HON J J BOSSANO:**

Mr Speaker, I gave notice of my intention to raise on the adjournment of the House the question of the announcements that have been made in the United Kingdom in respect of Gibraltar's enfranchisement for the 2004 European Elections. Mr Hain recently said in answer to questions that the United Kingdom Government had been in contact with the Government of Gibraltar and were seeking an early meeting to establish what would be required in terms of legislative and practical arrangements to ensure the European Parliament enfranchisement is extended to Gibraltar in time for the 2004 and that suggests that what we are talking about is the

mechanics of this, however at one stage in the Foreign Affairs Committee they gave some indication that here was no decision yet as to the constituency and I believe that that is a more important issue because I believe we ought to have some discussion as to if we have got options were we are likely to make most effective our voice and our being heard and the opportunities that they may give us particularly in the current circumstances, the situations that we face and the need to put a view across in the United Kingdom.

I would therefore suggest to the Government that a way should be found for us to be able to discuss alternatives informally. On the question of voting rights again we are seeing a similar position to that which we saw and I mentioned in relation to my substantive motion on our accession to the European Union the process was started under one Government, there was an election and the process was continued by the subsequent Government. In the case of the Euro vote the case went up before the European Court of Justice in our time and it was concluded in the time of the Chief Minister and the same line was taken by both governments in defence of those rights. When we petitioned the House of Lords on this matter it was done on the basis of a consensus between the two sides and consequently I would suggest that we may have an opportunity to discuss not the mechanics of it but the political advantages of pursuing a particular route perhaps when we meet for the Select Committee of the House on the Constitution. If we can agree that when we finish the formal work of the Select Committee at any particular time, we can informally discuss some of these issues, it gives us an opportunity for the five of us who are there to look at different possibilities on behalf of the two sides of the House and I would welcome an indication from the Government that they would be willing to enter into such a process. I am just suggesting that as a practical and convenient thing since we meet more regularly on that basis than we otherwise do, the whole point is that we should be able to discuss or talk on the phone or write to each other or do something as to how we are going to tackle the constituency angle which was mentioned by Mr Hain only once in his evidence to the Foreign Affairs Committee but if we have got

an opportunity there maybe not to be put in an area where we will be completely lost, I do not think we should let such an opportunity to let us go by.

#### **HON CHIEF MINISTER:**

Mr Speaker, I am happy to consult with the hon Member on this or any other issue that he wishes to consult with me about and if the hon Member's approach on this issue suggests a predisposition now to engage in that sort of consultation between the Chief Minister and the Leader of the Opposition then as far as I am concerned he is pushing at an open door. I am very happy, I would not be in favour of doing it in a way that enabled others to perhaps mistakenly think that it was formally part of the Select Committee's work but certainly I am very happy to consult with the hon Member by some means that we can agree between ourselves on this issue. There is a meeting set I do not know if the date has been fixed but certainly early in the new year there will be a meeting between Home Office officials who lead the United Kingdom on these issues and Gibraltar Government to deal with the mechanical aspects, particular UK Constituency to which Gibraltar is added and we have made a great fuss with the British Government to ensure that it should not just be the people of Gibraltar that are enfranchised but that the territory of Gibraltar must be physically included in the definition of the territorial definition of a United Kingdom Constituency.

The decision as to which constituency is formally actually the Boundaries Commission as opposed to the Government, I suspect on the basis of casual remarks not on the basis of any formal discussion with the British Government that they may be thinking in terms of the London region which from the point of view may not be the best one from the point of view of ability to participate even in the political debate, I would much prefer sort of south west but anyway those are precisely the sort of issues that the need to be discussed certainly I acknowledged that the Hon Member's Government initiated the Mathew's case but he will recall that he had not had time to formulate the case itself

before the election and that Michael Llamas and the Government did that after 1996 but certainly I recognise that the decision to challenge the exclusion in the courts and to start the action in terms of issuing of the writ was initiated by the hon Member even though the election intervened before the arguments had actually been formulated and submitted in terms of a statement of claim or pleadings. There are actually quite a lot of issues not just the choice of Constituency, there is a whole range of issues relating to how Gibraltar is a franchise, Gibraltar law, United Kingdom law, the need for the Gibraltar law if one does it separately to be identical to United Kingdom laws, indeed the need for us in terms of European elections to have electoral rules which are different to our House of Assembly elections because of course if we are taking part in an election as part of a United Kingdom we cannot have our own separate rules about funding of elections, rules for standing, rules for counting votes, forfeiture of deposit rules, all of these things have to be done as per the United Kingdom so there are quite a lot of issues that arise once one descends into the logistics and I am very happy to keep the hon Member abreast of those as they arise.

**MR SPEAKER:**

I now call upon the Hon J C Perez.

**HON J C PEREZ:**

Mr Speaker, the announcement by Gibtel and Nynex of the increases to local telecommunications charges was made on the 1<sup>st</sup> November when it was impossible for us in the Opposition to have put questions for this meeting of the House on the subject matter. However, I managed to briefly raise aspects of it during supplementary questions and was told by the Hon Mr Britto that the increases arise as a result of a requirement by the European Union to rebalance costs in order that each product of service should pay for itself. The press release issued by the two companies jointly attempts to justify the hefty 20 per cent

increase in local charges by saying that European legislation requires pricing of each product service to be justified, non-discriminatory, proportionate and transparent to the satisfaction of the Gibraltar Regulatory Authority. The fact of the matter is that in this so called re-balancing exercise neither this House nor more importantly the public at large, the telephone subscribers have been told what the breakdown in the cost structure is and what product of service is being made self-financing or why and under what part of the relevant directive this needs to be done now. Indeed the Minister could not tell us whether the revenue from Internet which is in fact a local call was included or not as part of the local traffic in the so-called re-balancing exercise.

Mr Speaker, Nynex has not provided international traffic services other than calls to and from Spain which in financial terms is on a sender keeper basis. The international traffic has been carried unaccounted for separately by Gibtel via an interconnecting agreement with Nynex. The gross subsidy that there could be therefore in connection with the provider of the infrastructure should be less than if that were not the case. Mr Speaker, I have to ask the obvious question, if historically each company has provided these services separately and they still do, what is the re-balancing exercise about, is it that Nynex are losing money in the local telephone business? We need to have a detailed breakdown of revenue and expenditure of each of the services or products with an accurate and specific description of it and allow us and the public to judge whether these re-balancing exercise is at all necessary which we feel it is not. We are told this is only a first phase on the re-balancing exercise clearly indicating that there are more increases in local charges to come. Is it that the line rental which is a monthly charge one pays to have a right to a telephone regardless of the use one makes of it, is it that this alone needs to be self-financing in this so called re-balancing exercise? Historically this rental used to finance the terminal equipment provided that is the telephone itself now this is paid for separately at the time of connection when there is also a connection a separate charge for the connection itself. Is this a product service itself or is it part of the income of a wider product service which covers all aspects of

local usage? None of this has been explained, yet if one looks at Directive 96/19/EC which is the one on which the argument for re-balancing is based on, it states that *“where such re-balancing cannot be completed before the 1<sup>st</sup> January 1998 the Member State concerned shall report to the Commission on the future phasing out of the remaining tariff imbalances, these shall include a detailed time table for implementation.”* Mr Speaker, I would ask the Minister whether indeed Gibraltar has reported to the Commission its intention to phase out tariff imbalances and if so what is the timetable for implementation and what are the components for these so-called re-balancing. The public have a right to these details. If on the other hand this has not been done we find it hard to understand what this re-balancing exercise is about given the profits made by Gibraltar Nynex over the last few years which have permitted some hefty dividend payments to shareholders. I ask again is it that the local telephony is losing money? We have been told Mr Speaker that this exercise needs to be done in order to pave the way for liberalisation, it seems to us that the increases in local charges are a response to the liberalisation that already exists in the international traffic with call-back services with the companies trying to recover revenue loss from cuts in international charges forced upon them by market conditions, by increasing charges where they still hold the monopoly which is in my view an unnecessary exercise given the huge scope for reductions in international charges that exist if the Gibtel dividends payment to shareholders is a reflection of the profit margins involved. If indeed we were preparing for liberalisation in the local telephony service which is what the directive is all about, one would think that the wise thing to do would be to lower charges not to increase them. Is it that there is someone applying for a licence saying that the charges are too low to go into competition? Surely the reasons for liberalisation and competition is to bring down charges, how can increasing charges pave the way for liberalisation?

Notwithstanding all this there is an aspect of even greater importance which cannot be forgotten when looking at the arguments being used to justify these increases. The directive in question clearly states that the liberalisation of the local

telephony service is the direct result of pressure from companies in other Member States wanting to provide cross-border services. The directive states *“the abolition of exclusive and special rights as regards the provision of voice telephony will in particular allow the current telecommunications organisations from one Member State to directly provide the service in other Member States.”* In another relevant paragraph it says *“It is likely that most new entrants will originate from other Member States and that such a merger would in practice affect foreign companies to a larger extent than national undertakings. This reference is made in relation to the restrictions put on establishing own infrastructure.”* The point being that before Gibraltar gives effect to this part of the liberalisation measures it must seek a commitment from the EU that if, for example, Telefonica is to be allowed to provide cross-border services into Gibraltar, Nynex, Gibtel, Gibnet, and any other established local telephone company will be allowed to do likewise, that is to provide cross-border services from a base in Gibraltar to Spain. In any case since Spain sought and achieved a five year transition period starting in January 1998 it would not be in a position to provide these cross-border services itself until January 2003. The so-called re-balancing of tariffs is to open up liberalisation if indeed the so-called re-balancing of tariffs is to open up liberalisation we should not be doing this until and unless we can guarantee our own telecom companies a level playing field. It seems to me that the present political climate does not auger well for that to happen. There is an even greater reason why this exercise of re-balancing should not be proceeded with if indeed its object is the implementation of Directive 96/19/EC. Clause 11 of the directive states the following *“Newly authorised voice telephony providers will be able to compete effectively with the current telecommunications organisations only if they are granted adequate numbers to allocate to their customers.”* Clearly Gibraltar is not today in a position to be able to do this and we all know why, in summary we think that if indeed it is true that the increases in charges respond to EU obligations they should in our view not proceed because Gibraltar is not in a position to implement the said directive as a result of Spain’s illegal non-recognition of our international country code. In any event before we do so we

must ensure that telecom companies based in Gibraltar will be able to provide the same cross-border services into Spain that Spanish companies are to be allowed to provide in Gibraltar. From a purely political perspective we think it is wrong that the Commission should have been sitting "*on its hand for six years*" words of the Chief Minister not mine, when it comes to the non-compliance by Spain of EU law in telecommunications and that this same Commission and Commissioner should be insisting that we comply with our obligations although clearly we are unable to do this because of their own reluctance to commence legal proceedings against Spain. Notwithstanding this we feel this so-called re-balancing exercise is in any case unnecessary even if it were responding to liberalisation which we believe it does not.

#### **HON LT COL E M BRITTO:**

The two points that have to be made up-front are as follows, firstly a lot of what the hon Member has said today would have been more appropriate to have been signalled at the time the legislation was brought to this House. The Telecomms Ordinance was brought to this House because the whole re-balancing exercise, the whole question of tariffs is now Gibraltar law contained in the Telephones Ordinance as required by the directive. On the context of the press release that the Opposition has put out earlier on this week to say that there is no justification for the releases, the justification is entirely there, this is now a matter of Gibraltar Law and the Company is acting within the law but I will say although it has not been said today that one of the points that the hon Member has made public in his press release asking the Government and myself personally to take political responsibility for these increases and what I would say to the hon Member is what this Government take responsibility for and I take responsibility for, is having stopped the increases in local calls for the last five years. When the hon Members licensed Gibraltar Nynex in 1990 they included a clause in the licence which gave Nynex automatic right to increase telephone tariffs as from two years after the licence was signed. As soon as the two

years, within months, of that two year limitation being applied the Government of the day, the Government sitting in Opposition today allowed those increases and those increases were of the order of 25 per cent. Not only did they allow the increases but they allowed a suspension of their own conditions and they allowed a projection of one year forward to estimated inflation one year forward to allow for higher increases as were allowed at the time under their own licence that they had issued and since I came in as chairman and as Minister in 1996 I have effectively convinced and stopped our partners in Gibraltar Nynex from raising local charges. On the contrary or should I say as well as stopping local charges we have as a Government decreased international charges five times during the last five years and today the local international charge stands at 29p which is less than half the 60p it stood at in 1996 when this Government came into office.

We also take credit for bringing together a merger at no cost to the Government which has also been queried by the Members and without any obligatory redundancies by any members of the staff, and as to the song and dance that has been made by Opposition Members as to the scale of the increases, let me say that despite all this scaremongering and flag waving of 20 per cent increases what it is actually in figures is one tenth of a penny per minute in the cheap rate. The Leader of the Opposition knows as well as I do that one can use figures whatever way one likes but effectively because the free allowance has been maintained it is estimated that the cost to the average household will be of the scale of 2 per cent increase in the monthly bill and this is because over 70 per cent of local households use the phone to make international calls and because of the substantial over 20 per cent decrease in international calls at the same time as this increase in local calls the effect will be of 2 per cent and in fact in the case of pensioners on rent relief, they will actually experience a drop in their phone bill because of the doubling of the phone allowance that comes into place at the same time.

We have been asked or told in public by Opposition Members that there is no evidence for these increases that these increases are justified or required by EU law and I can refer Members to Regulation 12 of the Telecommunications Competition Regulations 2001 which transposes into law EC Directive 90/3380/EC as amended by several other directives and which refers to the requirement for the re-balancing of tariffs. I also refer the hon Members to Regulations 18 and 19 of the Telecommunications Open Network Provisions Voice Telephony Regulations 2001 which transposes into the law of Gibraltar EC Directive 98/10 which sets out the tariff principals that have to be followed for organisations having significant market power and the cost accounting principals which have to be followed. Mr Speaker, the annexes to Council Directive 93/87 say very clearly the tariffs must be based on an objective criteria and must in principle be cost based. The article 4C of Directive 96/19/EC says very clearly that Member States shall allow companies to adapt current rates which are not in line with costs and which increase the burden of Universal Services provision in order to achieve tariffs based on actual costs. I could go on, I purposely did not extract a lot of other references because they would be irrelevant but what is very clear is that what has in fact happened in the rest of Europe where the situation dates back to the early 1990's when in fact the hon Member was Chairman of Gibraltar Nynex. As far back as 1992 in a communication on tariffs the Commission set out guidelines for cost orientation and adjustment of price instructions and said that this billed on the principles in the OMP directives that tariffs should be cost orientated. It called for European telecommunications operators to undertake major tariff reforms to correct historic imbalances and said that rebalancing was a crucial element of the preparation for a liberalised telecommunications environment in 1998. In 1995 the Council invited Member States to foster the establishment of dynamic competition for promoting the necessary re-balancing of tariffs and in effect throughout Europe what has happened is that this tariff re-balancing exercise which has happened in the rest of Europe which we are way behind because as Members know we have been late in transposing those directives throughout the whole of Europe this tariff re-

balancing has meant lower prices for international and longer distance calls and generally increased the charges for local calls particularly during peak periods, and also the basic connection and rental, there has been a corresponding increase in one and a lowering in the other and as far as the position in Gibraltar is concerned the position is very simple. There is now a requirement by law for this to be done and following the enactment of the Telecomm Ordinance Gibraltar Nynex was required by the regulatory authority to rebalance telephone tariffs so that these are cost orientated. That is based on the actual cost plus a reasonable rate of return and the Regulatory Authority has required Nynex to provide a separation account to satisfy itself that there is no cross-subsidisation between the services and the hon Member asked whether this was phase one of more increases. The Company has admitted to the regulator its increases at this stage of the increases but let us be clear, the situation is now very different to when Members were in Government or when the hon Member was Chairman. The Government now as Government do not regulate the prices, the Company is no longer able to set its own prices as it was allowed to do under the licence. The Company has to bid to the regulator and has to present evidence that any tariffs that it wishes to bring into force are cost based and have an acceptable margin of profit. To do this the Company has gone to a considerable expense and carried out a considerable accounting exercise to establish all these facts. The Regulator does not necessarily accept it at face value and in fact has not accepted it at face value, has given permission for these initial cost increases to go ahead but any subsequent costs will be a matter entirely for the Company and the Regulator and the Regulator or the Regulatory Authority I should say is the one that makes the decision whether those prices are right or wrong and I would recommend to Opposition Members that the Regulator who is transparent and independent should be approached by them directly on seeking information on levels of tariffs and on conditions on which tariffs are raised. I am being reminded that the Government are not accountable for the functions of the Regulator or for the decisions made by the Regulator who is independent of the Government and functions at arms length from the Government so any



queries or questions or clarifications Opposition Members have on regards to tariffs should be addressed to the Regulator and not to me as Chairman of the company.

On the question of detailed breakdown and justification by providing the public at large on the expenditure of the company and accounts of the Company and so on let me say straight away since July this year communications have been liberalised in Gibraltar and I have no intentions of standing up in this House, or outside this House, and disclosing information that is commercial-in-confidence to the Company. Any information of that nature should be addressed again and I said this at Question Time earlier on in this meeting, queries on it should be addressed direct to the Company that will in its commercial judgement decide whether such information is released or not released. Members should realise that, and I think do realise, that it is a commercial world out there, that the company is facing competition, in fact is already competing against unlicensed operators who are providing an international service through call-back and a number of other ways and when licences are issued this situation will be formalised but the Company has to protect itself and has to protect its employees and cannot release information which would be of value to its competitors. As regards the point made today and made earlier by the hon Member whether these increases in tariffs are in response to competition from call-back it is difficult to say yes or no. If the Member is saying whether the Company is reducing international tariffs in reaction to competition then the answer is yes, the Company is facing that competition and has to reduce its tariffs in order to meet competition, similarly any commercial company who has the ability to increase prices as it is now allowed to under the Telecomms Ordinance by remaining within the parameters of cost orientated limitations would obviously apply for increases as GNC has applied for increases to the Regulator in order to increase local tariffs, but again I repeat what I have said before let me be quite clear that any increases have to be authorised by the Regulator or Regulatory Authority independent of the Government.

**MR SPEAKER:**

I now propose the question put by the Leader of the House which is that this House do adjourn sine die.

Question put.                      Agreed put.

The House will now adjourn but I think it is appropriate for me and the Clerk and the Staff to wish you all and your families a very Happy Christmas and Prosperous and problem free New Year.

The adjournment of the House sine die was taken at 12.40 pm on Thursday 20<sup>th</sup> December 2001.