

GIBRALTAR

HOUSE OF ASSEMBLY



HANSARD

12 October 1982

REPORT OF THE PROCEEDINGS OF THE HOUSE OF ASSEMBLY

The Twelfth Meeting of the First Session of the Fourth House of Assembly held in the Assembly Chamber on Tuesday 12th October, 1982, at the hour of 10.30 o'clock in the forenoon.

PRESENT:

Mr Speaker (In the Chair)
(The Hon. A.J. Vasquez, CBE, MA)

GOVERNMENT:

The Hon Sir Joshua Hassan, CBE, MVO, QC, JP - Chief Minister
The Hon A.J. Canepa - Minister for Economic Development and Trade.
The Hon M.K. Featherstone - Minister for Public Works
The Hon H.J. Zammit - Minister for Tourism and Sport
The Hon Dr R.G. Valarino - Minister for Municipal Services
The Hon J.B. Perez - Minister for Health and Housing
The Hon D. Hull QC - Attorney General
The Hon R.J. Wallace, CMG, OBE - Financial and Development Secretary
The Hon I. Abecasis

OPPOSITION:

The Hon P.J. Isola - Leader of the Opposition
The Hon G.T. Restano
The Hon Major R.J. Peliza
The Hon W.T. Scott
The Hon A.T. Loddo
The Hon A.J. Haynes

The Hon J. Bossano

ABSENT:

The Hon Major F.J. Dellipiani ED - Minister for Education and Labour and Social Security (who was attending the CPA Plenary Conference in the Bahamas)

IN ATTENDANCE:

P.A. Garbarino Esq., MBE, ED - Clerk of the House of Assembly

PRAYER

Mr Speaker recited the prayer..

CONFIRMATION OF MINUTES

The Minutes of the Meeting held on the 6th July, 1982, having been previously circulated, were taken as read and confirmed.

DOCUMENTS LAID

The Honourable the Minister for Economic Development and Trade laid on the table the following documents:

- (1) The Port (Fixed Penalty) (Procedure) Rules 1982.
- (2) The Port (Amendment) Rules 1982.
- (3) Gibraltar Registrar of Building Societies - Annual Report 1981.

Ordered to lie.

The Honourable the Minister for Public Works laid on the table the following documents:

- (1) The Motor Vehicles (Temporary Importation)(Members of HM Forces)(Amendment) Regulations 1982.
- (2) The Traffic (Omnibus Fares)(Amendment) Regulations 1982.
- (3) The Traffic (Registration and Licensing of Civilian Vehicles)(Amendment)(No.2) Regulations 1982.

Ordered to lie.

The Honourable the Minister for Tourism and Sport laid on the table the following document:

- (1) The Gibraltar Museum Accounts for the year ended March 1982.

Ordered to lie.

The Honourable the Minister for Economic Development and Trade laid on the table the following documents:

- (1) The Employment Survey Report - April, 1982
- (2) The Prison(Amendment) Regulations 1982
- (3) The Employment Injuries Insurance (Determination of Claims and Questions)(Amendment) Regulations 1982.
- (4) The Non-Contributory Social Insurance (Unemployment Benefit)(Amendment) Regulations 1982.

Ordered to lie.

The Honourable Minister for Municipal Services laid on the table the following documents:

- (1) The Inland Call Charges Regulations 1982
- (2) The International Trunk Calls Charges Regulations 1982.

Ordered to lie.

The Honourable the Financial and Development Secretary laid on the table the following documents:

- (1) Supplementary Estimates Consolidated Fund (No.2 of 1982/83).
- (2) Supplementary Estimates Improvement and Development Fund (No.2 of 1982/83).
- (3) Statement of Consolidated Fund Re-Allocations approved by the Financial and Development Secretary (No.2 of 1982/83).
- (4) Statement of Improvement and Development Fund Re-Allocations approved by the Financial and Development Secretary (No.1 of 1982/83).

Ordered to lie.

ANSWERS TO QUESTIONS

The House recessed at 1.00 p.m.

The House resumed at 3.30 p.m.

ANSWERS TO QUESTIONS CONTINUED.

The House recessed at 5.25 p.m.

The House resumed at 6.05 p.m.

MOTIONS

HON CHIEF MINISTER:

Mr Speaker, I have the honour to move on the terms of the motion standing in my name that: "This House resolves that the Hon J B Perez be discharged as a Member of the Public Accounts Committee and that the Hon Dr R G Valarino be appointed a Member of the said Committee in his place". Mr Speaker, the Hon Mr Perez was made a member of the Public Accounts Committee sometime in 1978 and then after the elections when this House was constituted he was again elected. Mr Perez has now assumed more ministerial responsibilities in respect of Housing, he is also a member of the two Select Committees that have been sitting for a long time, the one on divorce and the one on rents, and he has naturally asked to be relieved of his responsibilities in respect of the Public Accounts Committee because it does meet pretty regularly and takes a long time and I therefore move that he be discharged and that Dr Valarino be appointed in his place. The Chairman of the Public Accounts Committee has pointed out to me, kindly, that there are one or two matters which have been discussed by the Public Accounts Committee on which no final decision has been taken and on which the Honourable Mr Perez has been participating. I have not been able to look carefully at this but I understand that though he may not be a voting member he can be co-opted by the Public Accounts

Committee to advise or in order to be able to give his views in respect of matters on which he has already contributed and he has no hesitation in winding up his own account. I would not like to put a date because it might take a little longer maybe matters are spread over and are not identified but on that understanding he will be available to the Public Accounts Committee in respect of those matters which have not been concluded as requested by the Chairman in such terms as make it possible, I think they have powers to co-opt.

MR. SPEAKER:

I think the powers are for the purposes of giving evidence or advice.

HON CHIEF MINISTER:

Well, in any case Dr Valarino will be attending as a regular member and no doubt the Chairman will issue an invitation to give evidence to the Hon Mr Perez in such a way that will help him with his work. I beg to move, Sir.

Mr Speaker proposed the question in the terms of the Hon the Chief Minister's motion.

HON G T RESTANO:

Mr Speaker, we will be supporting the motion. It is of course the prerogative of the Government to appoint its own members and for that reason we will support the motion. The point that was made by the Chief Minister is that when the Public Accounts Committee recessed during the summer, it had discussed a number of matters, it had interviewed a number of Heads of Department and all the evidence has been collated and really it requires final conclusions and recommendations to be reached and for that reason I did approach the Chief Minister this morning to explain that I thought that for at least one or two or three meetings the Hon Mr Perez should continue to finish up the work that has been done up to now. As Chairman of the Committee, Mr Speaker, I can say that the Committee itself has worked very well, I think everybody has contributed in a very helpful manner and I thank the outgoing member, Mr Perez, for his contribution to that Committee. It has worked well and I trust and I am sure that it will continue to work in as well a manner with the new member.

Mr Speaker then put the question in the terms of the Hon the Chief Minister's motion which was resolved in the affirmative and the motion was accordingly passed.

The Hon J Bossano abstained on this motion.

HON A J CANEPA:

Mr Speaker, I have the honour to move in the terms of the first motion standing in my name which seeks to amend the Social Insurance Ordinance and I would be grateful Mr Speaker, as has now become the practice, if I could dispense from having to read what is a rather long and complex motion.

MR SPEAKER:

I feel sure the House will give leave for the Hon Minister not to have to read the text of the motion which has been circulated with the Agenda and all Members are aware of it.

HON A J CANEPA:

Mr Speaker, the Social Insurance Ordinance requires the Minister for Labour and Social Security to review annually the rates of benefits and contributions under the Ordinance having regard to the general level of earnings and prices, provided that in determining the standard rate of Old Age Pension for a married couple, this is not fixed at less than 50% of the average weekly earnings of weekly paid full-time employees in Gibraltar or 33 1/3% in the case of a single person. At the time of carrying out this review, Sir, the latest available survey was that for October, 1981, and this gave such average weekly earning as £103.03. On this basis, therefore, it is proposed that the standard rate of Old Age Pension to be introduced in January, 1983, should be £55 instead of the present £49 for a married couple and £36.70 instead of the present £32.50 for a single person. These new rates represent increases of about 12½% whereas the rise in the index of retail prices during the twelve months from January 1982 to January 1983, is not expected to be more than about 10%. Other benefits under the Ordinance, Mr Speaker, will also be increased in the same proportion except that once again maternity and death grants are remaining the same as they are still higher than in the UK, the cost of living, Mr Speaker, and the cost of dying being different in the two places. The proposed increases in benefits are estimated to involve additional expenditure to the Social Insurance Fund of some £890,000 a year. As Hon Members may recall, the rise in expenditure on benefits over the past five years has been mainly but not fully met from increased contributions, the balance being met from the income from the funds investments. Although the report of the last actuarial review of the fund has not yet been received, the Government actuary has already pointed out that if this process continues of using investment income to bridge the gap between contribution income and total outgo the fund could be exhausted by about 1988. In fact, Mr Speaker, I think I had better correct what I said, the report of the actuary has only very recently been received but it has not yet been considered by the Government, in other

words, it has not yet been considered by Council of Ministers but the actuaries were consulted with respect to the proposals now before the House and as I say their advice was that the fund could be exhausted by about 1988 if the process of drawing reasonably heavily on investment income were to continue as has been the case in the last five years. And so, Sir, in order to maintain a fund large enough to act as a contingency reserve, it is recommended that by the time of the next review which will be in five years' time, contribution rates will need to be about one-third greater in relation to benefit rates than what they are in 1982. In order, therefore, to take the first step in this direction we are proposing to increase contributions in January 1983 by £2 per week, £1 from employer and £1 from the employee for both men and women and proportionately less for juveniles. In percentage terms this represents about 30% for men and 34% for women which is substantially more than the increase in benefit and substantially more than what the increases in contribution have been in recent years and even so it is estimated that there will be a shortfall of about £22,000 between contribution income and benefit expenditure, assuming that there is no drastic change in the unemployment situation. Should there be such a change the situation would be very much worse and give grounds for much greater concern over the funds future. Let me give some idea, Sir, of what this could involve. Say that we were faced with an additional 500 unemployed claimants, all married and with an average of two dependent children. Then during the three month period in which they are eligible for unemployment benefit at the rate which we are proposing for next year in a subsequent motion, the cost in benefits would be about £335,000 which when added to the corresponding loss of contributions of about £220,000 a year from these unemployed persons who are now paying contribution, would come to well over £1m. With this sort of prospect it will be appreciated that it is even more necessary to try and avoid benefit expenditure out-stripping contribution income. Estimated on roughly the present level of unemployment and taking account of the ever increasing number of old age pensioners, the measures proposed in this motion will result in estimated expenditure in benefits in 1983 of £4,810,000 and contribution income of £4,788,000 leaving the balance of £22,000, which I made reference to earlier, to be met from income from the funds investment. But as I have already mentioned, Sir, developments in 1983 could result in this deficit being considerably higher. The balance of the Social Insurance Fund now stands at close on £8m but at the current level of expenditure this represents less than two years expenditure and this without having regard at all to the commitment in respect of pensioners in the Campo Area in the event of the frontier opening, hence the need to continue increasing the funds reserves to the maximum possible extent. I trust, Sir, that what I have said will enable the House to give support to this motion. Later in these proceedings I am

presenting two other motions under the Employment Injuries Ordinance and the Non-Contributory Social Insurance Benefit and Unemployment Ordinance which are part and parcel of the annual review of our Social Security Scheme. Sir, I commend the motion to the House.

Mr Speaker proposed the question in the terms of the Hon A J Canepa's motion.

HON W T SCOTT:

Mr Speaker, although Members on my side of the House generally very much welcome the annual rise that there is in old age pensions and subsequent pensions, of necessity obviously the contributions also have to go up. But whether in fact, and I think it is the Hon Member opposite said a period of three years, whether the difference or the extent to which the Government would want the social insurance fund or the contributions towards it to take just the three years we are not at the moment entirely convinced on because it seems to us quite a sharp rise in contribution level both from the employer and the employee. That is really all at the moment, Mr Speaker.

HON J BOSSANO:

I think that if one were to choose between lower contributions and lower benefits and higher contributions and higher benefits, then I can tell the House that as far as I am concerned I am prepared to support the high contributions in order to get higher benefits and indeed to maintain the linkage between average earnings and old age pensions which we introduced, I think it was, in 1978. I think it was a very progressive step at that time and it is important that we should maintain that relationship for as long as we can afford it and I would support an increase in contribution if it is necessary. I am not entirely convinced that the arguments that have been put forward justify that the case has been made in fact which cannot be countered as to the degree to which we are increasing contributions this year. I will be voting in favour but I am expressing my reservations because I do not think the arguments that have been put to my mind prove the case conclusively. We are talking about raising an addition 1m in insurance contributions. We are talking about a labour force of 10,000, £2 a week £1 from the employer and £1 from the employee. That is in fact a very substantial amount of money to raise which has a number of implications not least of which is a reduction in purchasing power in the community of £1m because not the whole of the £1m is going to be put back into benefits since the intention is to build up what has been said is a somewhat depleted fund through failure in the past to match contribution and expenditure and a shortfall having been made by investment income. But

nevertheless the reality of the situation is that the fund does get bigger every year, that it was £7m at the end of the financial year 1980/81, £8m at the end of the financial year 1981/82 and I have no doubt it will be £9m or £10m at the end of the year 1982/83 particularly when one takes into account what has been happening in the gilt edged market and what has been happening to the funds investment which will no doubt have appreciated considerably in the last few months. I think we are going to see ourselves with a very healthy fund at the end of the year. I accept entirely the arguments of the Hon Minister that should there be a drastic change in the employment situation in Gibraltar, the fund can no longer be considered to be in a healthy situation if we have massive unemployment and huge calls made on the fund but I do not think that a problem of that nature is one that we can resolve ourselves within our own resources and I would certainly not accept that we have to assume the responsibility at this stage for making provision for such an eventuality, so I think in looking at the fund we must look at the fund on the basis that the situation will continue as it is at the moment which in itself in fact is a deterioration from what it has been in the past. We have got now something like 500-odd people out of work whereas on average in previous years it has been half that figure, 250 to 300 people has been the usual level of unemployment in past years in Gibraltar. I think also that whilst I am speaking on the general principles, if I can make some reference to the other motions, there are some apparent inconsistencies which I think have arisen inadvertently over the year but if there is a logical explanation for them I would welcome hearing that explanation from the Government. Particularly in looking at the different levels of benefits provided under different provisions we find that, for example, the increase for dependent children under the retirement pension, under the unemployment benefit, and under the old age pension is in all cases £5.40, nevertheless in the case of industrial injury it is £4.27 for the first child and £2.80 for subsequent children. It is difficult to understand why the addition that is made to the benefit in the case of dependent children should be less in the case of industrial injury than it would be in the case of a pension which, there are very few cases of course of old age pensioners having dependent children but they do exist but there cannot be more than half a dozen, I would think, but certainly in the case of unemployment benefit there is a pattern, there is a standard figure in three of the benefits and there is a different approach in the fourth benefit. If there is a logical answer to that I would like to know what it is. We also find that whereas the actual benefit paid of £33.25 to the person who is single is higher than the level of unemployment benefit though not the level of old age pension because that is linked to average earnings, the adult dependent is £8.33 so that in fact a person in receipt of industrial injury benefit who is single gets something like £9 or £8 more than

somebody who is single unemployed, but somebody who is married and industrial injury gets less than somebody who is unemployed. Again there seems to be no reason other than it is a historical accident because the benefit starting from different basis have had additions put to them over the years without in fact a cross check being done on it, at least I think that is how we have arrived at that situation but if there is a reasoning behind it I would like to be given the explanation for it. I also think that in the question of the payment of injury benefit, I am not sure for how long the injury benefit is paid, but we do have a situation, Mr Speaker, where to some extent the benefit in the majority of cases accrues to the employer rather than the employee and I wonder if perhaps not on this occasion because we are now in the middle of actually passing the legislation but if the Government could give some thought with plenty of time for their next revision to seeing whether there can be some alterations in the rules governing payment for this because we have a position where somebody who has an injury at work, for example, particularly in the public sector I am thinking although it applies to some extent as well in the private sector, where the union agreements provide that the level of benefit paid by the employer to the employee lasts longer where it is as a result of an accident at work than it does when it is a result of sickness because obviously there is some measure of responsibility ascribed to the employer. Because the employer gives the full wage to the employee it means that during the period of the industrial injury effectively particularly in the public sector, one finds that since there is no separate injury benefit as such, there are twenty-six weeks of sick leave, it is cheaper for the employer to pay an employee on industrial injury than on sick leave because whatever the Government is increasing go back to the employer and the employer makes up the difference but then what tends to happen and I am thinking of specific cases that I know of, is that the two benefits tend to terminate at the same time so that we find that the worker who is out of action for a lengthy period of time as a result of an injury at work but who has not in fact been medically boarded as being capable of recovering and of going back to work because if he is boarded then he gets a disablement and he finishes employment but if it is a lengthy one, he can exhaust the benefit both from the employer and from the insurance and find himself going from full wages to nothing. It seems to me that if one could give some thought to the possibility of channelling the injury benefit to the period of time when the wages from the employer finish then we would provide a better cushion for people who suffer from industrial injury. I think that that particular point is one for the Government to give some thought for the future because I do not think it is something that can be done on the spur of the moment, one has to look at all the implications and see how it can be drafted but I want to take this opportunity of saying it. I think the

other one is something that I would like an answer on before we come to vote. The third point that I want to make, Mr Speaker, is that I have had representations regarding the question of eligibility for unemployment benefit for people who are retired from Government employment. We, I think, amended the legislation not so very long ago in this House and this affects particularly non-industrials who retire before the age of old age pension and who cannot in fact register, apparently, as unemployed and draw unemployment benefit. I thought that this limitation was put on people who opted for voluntary retirement which to some extent has a logic in it because if somebody chooses to give up his job then really one assumes that he would not want to go and register at the employment exchange to seek another job when he has given up his job voluntarily but when you have got a situation where non-industrials are required to terminate their employment at the age of sixty because they are blocking promotion and they cannot be found re-employment on a down-graded basis, they have got a five year gap between the time that they retire from their employment and the time they qualify for an old age pension. During that five year gap they either have to register as unemployed and get credits or else they have to find alternative employment or they have to keep on from their occupational pension maintaining their payment so as not to prejudice their eventual benefit, I would have thought in cases where retirement is compulsory people should not be penalised because presumably were they given the choice they would continue working until sixty-five. I am not sure whether in fact they are being penalised or not but I have had representations made to me to the effect that they are, that in fact they are made to retire and that they cannot register as unemployed and that they cannot draw unemployment benefit and they have to out of their occupational pension maintain social insurance payments in order to be able to qualify five years later for an old age pension. I would like clarification on that point.

HON A J HAYNES:

Mr Speaker, I have three matters to bring to the attention of the Hon Minister. The first concerns the disparity in some pay as between sexes. Is the Minister trying to erode this distinction? Is he aiming for equality of sexes at a time when common sense

HON A J CANEPA:

Mr Speaker, is he referring to benefits or contribution rates?

HON A J HAYNES:

Both, Mr Speaker. It does seem to me that if we have equal rights for women that they should be entitled not only to

higher benefits or the same benefits as men but they should also be asked to contribute in like manner and perhaps this is something which Government can investigate. I note in fact that in all the rates that we have before us only the old age pension in the event of being permanently incapable of self support we do have equality of sex in benefit and I was wondering why that distinction should be abandoned at that point and nowhere else. It does seem to me that a widower has as many problems as a widow and that these distinctions should not be perpetuated or at least if it is not feasible at the moment that they should perhaps be removed at a later date. Secondly, Mr Speaker, on the question of the contributions by self-employed persons, I believe that these are somewhat high and that if as is the case we are trying to encourage diversification we should therefore be trying to encourage the self employed and I believe this is a small inducement, I appreciate that it is tax deductible but it is still money that has to be found and a reduction in this sphere may be of interest to Government and it may also, Mr Speaker, not only lead to diversification but it also may bring more people under the umbrella of the social security system, more people will declare those self employed jobs which they undertake and this is perhaps an incentive which the Government will consider at a later stage. Again, of course, the disparity of sexes should be removed if possible there. Lastly, Mr Speaker, a note of concern. I notice that the Hon Member referred to our obligation to those Spanish workers who would be entitled to receive benefits following the opening of the frontier. Can the Minister make a statement on the effect this could have on the fund? As I understood it the other problem we have is that since the second generation contributes and pays for the first generation, if as seems to be the case we are going to have fewer children in years to come as population numbers dwindle as family composition numbers dwindle, what is going to happen with the benefits to be received by those who are contributing today, are they going to be proportionate to the contribution that they are making today? Are we going to have a situation where fewer people are paying for more and if this is the case if the Minister is concerned for the future wellbeing of generations, can he assure this House that enough money from the contributions is being invested and ploughed into the whole system rather than being passed out on a weekly basis?

HON P J ISOLA:

Mr Speaker, I would like to say something and give way for some enlightenment. Is unemployment benefit, in fact, payable under the Social Insurance Ordinance?

HON A J CANEPA:

No, it is payable under the Non-Contributory Unemployment Benefit Insurance Ordinance, the third one on the Order Paper.

HON P J ISOLA:

So that as far as the Social Insurance Ordinance is concerned no unemployment benefit is paid out of that and I suppose that the problems to the fund that would arise from high unemployment would be the fact that contributions would not be paid.

HON A J CANEPA:

No, the rates of benefits are prescribed under the Non-Contributory and Unemployment Benefit Social Insurance Ordinance but the unemployment benefit is paid out of the fund for thirteen weeks after which if the beneficiary is still unemployed he may be entitled to supplementary benefits which is then paid out of the Consolidated Fund.

HON P J ISOLA:

I thank the Minister for that explanation. The only observations I would like to make, Mr Speaker, I agree entirely that if we are to maintain increases in social insurance benefits with average earning, contributions will have to go up but am I right in thinking that at some point of time, depending on how the economy develops, the Government will have to consider the effects on the development of the private sector of the economy from high social insurance payments and I think that is something that should be kept in mind. The Government does have a built-in advantage in the Social Insurance Ordinance in that the people who receive the benefit of increase average earnings and therefore an increased insurance benefit of course receive these benefits free of tax.

HON A J CANEPA:

Is he saying that that is an advantage, I would have thought that it wasn't.

HON P J ISOLA:

No, not an advantage to the Government it is an advantage to the recipient.

HON A J CANEPA:

And to the private sector because there is higher disposable income.

HON P J ISOLÁ:

Yes, what I am saying is that there is an advantage under the social insurance scheme in the fact that benefits are paid tax free to the recipient, that whereas in the United Kingdom if they keep up with average earnings the benefits under the Social Insurance scheme tax is paid on these average earnings so in Gibraltar a greater benefit is accruing to the recipient.

HON J BOSSANO:

Mr Speaker, this is quite different surely because in the UK there are two levels of benefits which is the basic rate of benefits and the supplementary rate which is earnings related. The move to tax social security benefits is a very recent move introduced by the present Government, it has never been the case in the past.

HON P J ISOLA:

I am not clear. The only point I wish to make, Mr Speaker, is that with a possibly worsening economic climate this social insurance fund has to be watched very closely and it may be wise to be slightly less generous in payment so that in the future the payments can be kept up rather than to be more generous, this is to my mind cautious economic thinking. What I would like to see, Mr Speaker, and the main reason for my getting up here, and I say it in the context of this particular motion as my Honourable Friend Mr Bossano has referred generally to all the benefits that are to be increased, I would like to make a plea at this stage to the Government to reconsider its attitude once more on the question of the Elderly Persons Pension, that we are increasing by 12½% or whatever retirement pensions free of tax, social insurance pensions free of tax but the increase under the Elderly Persons Pension what we are doing is taxing it and therefore as we push it up so the rate of tax will go up in the hands of the recipient so that they will not be getting the same net benefit in percentage terms as the other two insurance recipients and in fact the position in relation to them because of the tax bracket and so forth will be a worsening position rather than an improving position. They will get more money but they will probably pay more tax and it could go up into a higher tax bracket, I am not sure, whereas the recipients of social insurance pensions and retirement pensions no matter what their income is, no matter how high their income is, will get the 12½% increase net. There is a basic unfairness and social injustice in this and I would ask the Government as the Elderly Persons Pension Bill comes at a later stage to consider whether they ought not to put it right once and for all.

HON CHIEF MINISTER:

Sir, there is just one small point I would like to raise in connection with points raised by the Hon Mr Bossano of the fact that the increased contributions will mean less disposable income for spending, of course, but not to the full extent of £1, certainly not more than 70p and possibly 55p or 50p less because they are tax exempt and therefore to that extent the burden is not as high as it looks.

MR SPEAKER:

I will call on the mover to reply.

HON A J CANEPA:

Thank you, Mr Speaker, I have taken careful note of most of the points that have been made, Mr Speaker. The Hon Mr Bossano raised a few matters which are of a slightly more complex nature in respect of which I do not feel that I can respond to all of them here and now. I do not know, Mr Speaker, if it is possible for a reasonably early copy of the Hansard to be made available in respect of his contribution so that when Major Dellipiani returns I am able to go over the points that were made by the Hon Mr Bossano with him because it is really for him and his Department now to consider the points that were made with a view to possible future implementation. If that were to be possible I would be very grateful because it makes life much easier for us or more difficult for the Clerk of the House, I realise that. What I can say though regarding the disparity that there is in benefits payable to dependents that this is very much a historical thing and I would agree, as a principle, that we ought to strive for greater rationalisation in respect of similar benefits. Mr Scott, Sir, made reference to the sharp rise in contributions, and I do agree that they are quite sharp though the Chief Minister has just pointed out the extent to which the increases in fact attenuate it but nevertheless a joint contribution by insured person and by employer £8.50, at a time when average earnings measured by the April Employment Survey stand at what, over £120 a week, this means, Mr Speaker, that we are financing a very high level of benefits, higher than in the United Kingdom, very much higher in real terms than in the United Kingdom, through a joint contribution of about 7% of average earnings whereas in the United Kingdom I think that it is more like 14% or 15% so I think we are getting a very good value, a very good return in this scheme part of it I think is because the administrative costs are extremely low and they are not passed on to the fund, the cost of the administration of the scheme is met by the tax payer and not by the contributor and partly, of course, because I like to think that whatever

abuses there may be in a vast social security setup such as you have in the United Kingdom are very much less so in Gibraltar. I think in the United Kingdom, Mr Speaker, the stage has now been reached when if someone is away sick, he is able to certify himself that he is away sick and go and collect his social security benefit. I think it has reached that ridiculous stage and they prefer to do it that way because it keeps the costs of administration down. Well, we haven't reached that stage in Gibraltar so I think we are getting a good return for our contributions. The Honourable Mr Haynes' points were mainly directed on the question of equality of the sexes. What has happened over the last few years is in fact that we have been moving precisely in the direction of greater equality. An EEC directive which requires that contributions by males or females should be the same and which requires that married women should contribute the full rate that that widows should contribute the full rate if they are in employment, something which I personally disagree with, but that EEC social security directive comes into force I think it is in 1985 and we have, as a result of that, been moving in the direction that we have been closing the gap in contributions between female workers and male workers and by 1985 the gap will have been abolished completely. With regard to benefits, we have also been doing something similar, because whereas previously there used to be no provision for benefits for a widower, now where a widower is incapable of self support, in other words, a handicapped person who has been dependent on his wife as the breadwinner and he becomes a widower, previously he would have got no benefit other than supplementary benefit. We legislated a few years ago to make provision for a widower's benefit. We have also made provision in similar terms for a woman who is paying insurance may in the case of her husband who is not paying insurance, that she may get the additional benefit which a man receives in respect of his wife or, indeed, that the husband may, when he reaches the age of 65, get a pension paid in his own right but based on his wife's contributions as a worker. That did not exist two or three years ago. Where we haven't introduced equality and I personally don't agree that we should, is in either lowering pensionable age for females from 65 to 60 or doing the opposite, increasing it for women from 60 to 65. The progressive measure should be that you lower it to 60 or at least to a figure in between, such as 62 or 63 for everybody. That would be a costly exercise and that is, I think a distinction which I think we are going to have to carry for some years yet. I don't agree that the self-employed is somewhat high compared to the employed because what used to be the case, say, 10 years ago, was that in fact the self-employed person was paying the employed person, the employer's contribution and the insured person's contribution, which was virtually double the insurance. Now, taking precisely the point made by the Honourable Member, because of that reason, the joint contribution is £8.50 whereas the self-

employed is paying £5.10, only 70p more than the insured person. That is as a direct consequence of the points that he has made and I don't think that we should move to the position where the self-employed pays exactly the same as the insured person, I think he has got to make a slightly bigger contribution to the fund. Regarding the obligation to the Spanish workers, I have given a great deal of information myself and I am sure my Honourable Colleague, the present Minister for Labour, also has over the years in respect of that commitment. I wasn't referring to the frozen commitment, if you like, which exists in respect of Spanish workers who overnight were not allowed to come into Gibraltar back in 1969. I wasn't referring to that. The bill for that is a hefty one and I have made my views abundantly clear in the House on more than one occasion and in public as to who should pick up the bill in respect of that commitment. What I was referring to was the fact that if the frontier opens - is it on the 29th of October that it is going to open? What is that a Saturday or a Sunday? Then on the Monday, you could conceivably get a number of Spanish elderly persons applying for benefits at our Social Security offices and there is an undeniable commitment to those people in respect of pension rights which I think would be back-dated 12 months. That is a reasonably hefty bill which I think we would have to meet and that bill, I forget what the figure is at the moment, but I think the information has been given in the House either at question time or the Honourable Member will look back over Hansards at this time of the year, I think it has been provided. If not, it can be provided because it is available. That is the extent of the obligation that I was referring to. The problem of the generations, of one generation having to meet the cost of benefits through its contributions for the previous generation. This is linked to the problem of lowering pensionable age to 60. This is why it would be so costly because you would have more pensioners and fewer people in employment, or fewer people contributing, and it is also linked to the point made by the Honourable Leader of the Opposition about the formula and about the fact that the benefits are now tax free and I think the question that he was posing could perhaps be summed up; "For how long can we afford to pay this?" Well, I don't know. It is a point, I think, that may have to be considered. I would be very reluctant, I think, personally, to see the whole thing being dismantled having regard to the fact that I had a small part to play in bringing the formula here, but we have to be careful of certain pitfalls. If Honourable Members consider the Employment Survey which is now before the House, they will see that average earnings for full time weekly paid employees have gone up considerably, probably, and almost certainly due to the fact that there have been very high levels of overtime in the dockyard. That presents a slightly distorted picture because those high levels of

overtime may not always be maintained and the point is whether in considering the level of average earnings applicable to a particular review, to what extent does the Minister for Labour and Social Security take into account average earnings which are now very high and which in 6 month's time may actually go down and what should he do? Should he bring a level of benefits as required by the Ordinance to take account of that? I don't know, it is a problem. Fortunately on this occasion it hasn't happened but I am not sure that if the present high level of overtime is maintained at the dockyard over the next 6 or 9 months, whether that problem is not going to rear its ugly head in a year's time. It well might. The problem then is a diminishing labour force, fewer contributors and more pensioners. To what extent can contributors continue to meet their commitments? I don't think that we can increase contributions every year by as much as what it is proposed to do now, £1 for the employer and £1 for the insured person, I don't think we can do that. But, as I say, we are financing the scheme on a reasonably low level of contribution and I think it is a matter which is beginning to worry us in Government, I know that it is exercising the minds of the Labour Department, I am not indicating at this stage how the Government is thinking, I am just giving food for thought for Honourable Members who I know take a particular interest in this matter so that they will see that these are problems that we are going to have, perhaps, to watch out for in the future. I think I have covered most of the points, Mr Speaker, other than the ones made by the Honourable Mr Bossano, and oh, yes, I have left out EPP. I have been delegated by my Honourable absent Colleague to say, as he would have done no doubt were he here, and he takes a much stiffer hard line on this than I do, I have been delegated by him with authority to say, no.

Mr Speaker then put the question which was resolved in the affirmative and the motion was accordingly passed.

HON A J CANEPA:

Sir, I have the honour to move in the terms of the motion in my name which is intended to amend the Employment Injuries Insurance Ordinance, and again, Sir, I would seek the leave of the House to dispense with having to read the motion.

MR SPEAKER:

Yes, most certainly you have got leave.

HON A J CANEPA:

Well, Sir, my contribution in moving this particular motion is much shorter, it is a much more straightforward matter. In effect, what we are seeking is to increase benefits under the

Employment Injuries Insurance Ordinance by about 12% in January, 1983, in line with the other increases in benefits. Injury benefits for a man with a dependent wife would thus go up from £37.17 pence to £41.58 pence per week, with additions for children. Gratuity on death resulting from an industrial accident would be increased from £8400 to £9400 and likewise for 100% disability a weekly pension of £33.25 pence instead of the present £29.75 pence. For the second consecutive year, Sir, it is not proposed to increase the weekly contributions under the Ordinance. They now stand at 16 pence, 8 pence each from the employer and the employee, and barring some major disaster at a place of work benefit expenditure will still fall well short of contribution income, let alone income from investments of the Employment Injuries Fund, which now stands at over £800,000. As from 1982, Mr Speaker, all disablement pensions which in the past remained at the rate prevailing at the time of the relevant accident, are being updated annually and it will be time in 1984, perhaps, to consider some small increase in contribution to meet the rising additional cost to the Fund. Sir, I commend the motion to the House.

HON A J HAYNES:

Sir, I would like to bring to the attention of the Minister that if a person who is eligible to a disablement gratuity is injured in say, the year 1977, then when the medical board come to decide on a percentage of disablement he is afforded the payable rate as per the year of his injury rather than as per the year when the percentage is assessed and similarly, Sir, if a person is injured and is assessed in the year 1977, and he comes back 10 years later because his injury has been exacerbated by any further matter again if he is given another percentage bonus so to speak, he is assessed as per the year of the injury and not as per the year of the assessment and this, Sir, though it means a saving for Government, obviously.

HON A J CANEPA:

Not for Government.

HON A J HAYNES:

It does, nevertheless, appear fairly harsh in so far as inflation has undermined the value of the pound and all indications seem to ensure that it will continue to do so and, perhaps, at least a compromise measure can be introduced by Government so that even if the initial degree of disablement percentage is quoted as per the year of the accident, an application for review on the basis of a worsening of the injury should be assessed as per the year when that worsening takes place.

HON A J CANEPA:

I am not sure what the position is under the Ordinance in that respect. I am sure that what is done by the Medical Board is obviously in consonance with the requirements of the Ordinance. What I am aware of is the philosophy behind the principle of a disablement gratuity as against a disablement pension, the option, in other words, that is given to the individual to opt for one or for the other. In the case of a disablement gratuity, it is a sum of money which can be invested in order to get a return by way of interest or which could be used by an individual to set himself up in business, and if this is invested then he would derive interest over the years which if accumulated will in fact maintain the value of the gratuity that he got in the first place. If he uses it to set himself up in business the profits derived from the business also stem directly from the fact that he got a gratuity. Whereas if the individual opts for a disablement pension, that pension cannot be frozen at the rate at which it was at the time when he was injured otherwise, 20 years later, it would have lost its value almost entirely and therefore it is kept under periodic review. That is the philosophy behind it. I am not sure, quite honestly, what happens in the circumstances that the Honourable Member has mentioned, where an injury is aggravated and an application is made for a re-assessment. I don't know, I would have to look into it and perhaps inform the Honourable Member as to what is the reason behind it.

HON A J HAYNES:

As I understand it, the position is as I have outlined it, Mr Speaker, and perhaps if the Minister corroborates this information, will he then do something?

HON A J CANEPA:

Yes, the principle in which that is based should be examined as to why is that the case, is it valid, and what should be done in the future. I think, again, it is something that can be gone into by the department.

Mr Speaker then put the question which was resolved in the affirmative and the motion was accordingly passed.

HON A J CANEPA:

Finally, Mr Speaker, I have the honour to move in the terms of the motion standing in my name which seeks to amend the Non-Contributory Social Insurance Benefit and Unemployment Insurance Ordinance and again, I would seek the leave of the House to dispense with having to read it.

MR SPEAKER:

You have got the leave of the House, most certainly.

HON A J CANEPA:

Thank you, Sir. Sir, this is the third and last motion in this annual series and it deals with two benefits, really, Retirement Pension and Unemployment Benefits. Both are payable under this Ordinance although as Honourable Members are aware, the former, in other words, the Retirement Pension is based on the Consolidated Fund, due to transitional arrangements that were made at a time when the fund could not bear the cost of these pensions and the latter, in other words, unemployment benefits, from the Social Insurance Fund. With regard to Retirement Pension, the Order proposes an increase of £3.20 pence a week, from £26.30 to £29.50 for a single person, and of £4.80 a week, from £39.60 to £44.40 for a married couple. As I said, this is a transitional benefit, it dates from the time of introduction of old age pension back in 1955 and there are now only about 60 pensions in payment. I think when I first rose in this House, Mr Speaker, 9 years ago, to move the first review of the Social Insurance Scheme in my name, I think the number of such pensions was 130 something, so over 9 years we have about half. The extra cost of increases to the Consolidated Fund is estimated at £10,000 per annum of which £2,500 would be payable in the current financial year 1982/1983, in respect of the quarter of January - March, 1983. Some provision for this increase was made in the approved estimates so it is not anticipated that additional funds will be required and if so they would be minimal and we may not have to come to the House, it might be possible to vire from some other sub-head. In the case of unemployment benefits, Sir, the intention is to raise a basic weekly rate by just over 12%, from £24.30 to £27.30 per week, with increases of £13.50 for the wife and to £5.40 for children. Persons who qualify for the benefit but who have not been ordinarily resident in Gibraltar for at least 2 years since July 1970, receive much lower rates which are also being increased proportionately. In calculating the cost of this increase to the Social Insurance Fund, Sir, it has been assumed that the level of unemployment in 1983 will remain at about the same level as at present but I think I should sound on this occasion as well the warning, as I said previously in presenting my first motion, that a very considerable extra burden could be imposed on the Social Insurance Fund if there were to be serious unemployment. The drain on the fund could be serious and between increased expenditure and loss of contributions could come to over £1m a year. Also, Sir, once that additional number of unemployed persons had exhausted their 30 weeks unemployment benefit, many of them would become entitled to supplementary benefits

and the amount payable would then depend on the size of the family and whatever income there was in the household. It is therefore impossible to give an exact forecast of costs but at a rough estimate the Consolidated Fund could be faced with additional expenditure on these cash benefits alone of the order of £1m a year without having regard to the additional cost of such things as rent relief, loss of group practice medical contributions and so on. I mention all this, Mr Speaker, just to show the very disturbing prospect that could face Gibraltar in the future and which therefore makes it so vitally necessary to exercise the utmost circumspection in limiting increases on social benefits to the minimum compatible with justice on the one hand and on the other our financial resources. Sir, I commend the motion to the House.

Mr Speaker then proposed the question in the terms of the motion moved by the Honourable the Minister for Economic Development and Trade.

HON A J HAYNES:

Mr Speaker, just a very small point. As I understand it, the money we pay in by way of Social Insurance is what is used as a fund for this and we have, as the Minister has outlined, not only the problem of a different proportion as between those contributing and those benefiting, which is the likely prospect for the future, but we also have the two further problems of a sudden run of the bank if and when the frontier opens and the Spaniards come to claim their rightful sums and furthermore, Mr Speaker, we have this other problem of an increase in unemployment which not only means we have fewer contributors but we also have a growth of contribution. In this respect, Mr Speaker, can the Minister state how much or what proportion of the contributions made on the weekly basis, say, of an average per man overall between employer and worker of £8. How much of that £8 is invested and how much of it is held on tap for immediate payment and furthermore is the invested sum increasing in a way which will take in the potential rough period of unemployment and the Spanish contributors, although we find that to meet those demands we will have to cut into the saving fund or the deposit fund.

HON A J CANEPA:

The Financial and Development Secretary, Mr Speaker, informs me that the position is reviewed every 6 months or so and some of the contribution income is invested in short-term securities and therefore they could be realised if necessary at reasonably short notice. The position is kept under constant review.

HON A J HAYNES:

If I may intervene, Mr Speaker. The matter of re-insurance of Government properties and so forth, these funds can they in any way be related to these other funds?

MR SPEAKER:

No. We must not get involved in this.

HON A J CANEPA:

It has nothing to do with the insurance of Government buildings what I can say is that the Social Insurance Fund is drawn upon by Government when it borrows. On some occasions part of the Fund is invested in Government debentures with the necessary safeguards that the return on those funds should be a reasonable return. In other words, Government does not take advantage of the Social Insurance Fund.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

If I may intervene, Sir, on a point of justification. Last year, on the borrowing of the £14m bill we put about £1.25m in the Social Insurance Fund and we negotiated it on length with the Head of the Department a rate which was based, on the UK rate at the time which I think was 12½%, which is high in today's terms.

HON A J HAYNES:

Mr Speaker, I am grateful for that. The point I am trying to make in relation to the re-insurance of Government properties is that as I understand it, it is common practice for pension funds and funds of this nature the saving aspect of the fund in property. Perhaps the Government could consider incorporating in their own re-insurance system the pension fund contribution as this may enable Government to eventually own buildings on behalf of pension funds. It may be an investment which uses the fund rather than taking it outside Gibraltar and may eventually lead to the kind of security that is required, I am not sure.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I think, Mr Speaker, if I may intervene in this, the Honourable Member is thinking more of provident funds, where amounts are paid out, where you don't have a pension fund in a country but you have a provident fund in which the employer and employee pay over a period and then at the age of 55 or 60 or 45 or whatever, he draws a lump sum out and in provident funds they do invest in property but not in the type of fund that we have here.

HON A J CANEPA:

I commend the motion to the House.

Mr Speaker then put the question in the terms of the motion moved by the Honourable the Minister for Economic Development and Trade which was resolved in the affirmative and the motion was accordingly passed.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, I beg to move the motion standing in my name in the following terms. Be it resolved that the House of Assembly do approve the giving by the Governor of the following Notice.

MR SPEAKER:

I think we can dispense with that since the motion was circulated with the agenda.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Well, the only point on that, Sir, is that in 1(1) it should read: "this notice may be cited as the Licensing and Fees (Amendment and Schedule)(No.2) Notice 1982". We have had one this year and I am afraid this was overlooked when we gave drafting instructions. I apologise to the House.

MR SPEAKER:

Well before you move you can amend and that will be alright.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I propose that we amend it.

MR SPEAKER:

You can because you haven't moved the motion yet.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, Sir, the fees payable by traders for the services of customs staff outside normal hours of business were last revised and increased in November, 1979. It presently stands at £5 per officer per hour subject to a minimum charge of £15 per officer on Sundays and Public Holidays and £10 per officer on any other day. Pay Awards since they were last changed in November, 1979, have increased salaries by some 35% and it has once more become necessary to adjust the level of the fees. It is proposed that with effect from the 1st November, 1982, the new fee should be £7 per officer per hour

with a minimum charge of £20 per officer on Sundays and Public Holidays and £13.50 on any other day. Those amounts are basically 35% but rounded to the nearest 50p. When the fees were last revised it was agreed with the Chamber of Commerce that the present fee would remain unchanged for a period of not less than one year and I now give a similar assurance in respect of the new fees. Mr Speaker, the fees payable for the services of the Customs Staff outside normal hours of business are specified under Item 8 in Part II of the Second Schedule to the Licensing and Fees Ordinance and the Schedule may be amended or added to by Notice given by the Governor in the Gazette with the prior approval of the House. I beg to move that the House now resolves in the terms of the resolution.

MR SPEAKER:

I understand then that you want to call it the Notice (No.2) of 1982, is that right?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

That is right.

Mr Speaker then proposed the question in the terms of the motion moved by the Financial and Development Secretary.

HON P J ISOLA:

I am grateful for the assurance the Financial and Development Secretary has given but has he by any chance had any consultations with the Chamber of Commerce on these fees. It just seems to me that with the crisis that we are at present going through, is it wise to increase these fees as sharply as they are being increased?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I am afraid I have only just returned from leave and as far as I am aware there has been no consultation with the Chamber of Commerce, we have merely kept our word that we would not increase them for one year, and we have not increased them for three years. It does look a sharp rise but it is a rise over 3 years and in fact it doesn't quite meet the cost to the Government of the work of the officer because if you take into account the amount which is paid the officer in salary, the cost of keeping him in uniform clothing, his pension rights and the like, you are only in fact paying the marginal costs, i.e. the cost per hour of that officer so that although it does look quite a large increase it is the first one for three years and I think it is justified if we are to keep our fees for services by Government officers consonant with the

costs. As I say, I have given the undertaking that they will not be changed within the year and of course it is open to traders not to use these services if they do not want them. In effect they are only called on when it is absolutely vital for a trader to call the customs staff in after normal hours.

Mr Speaker then put the question in the terms of the motion moved by the Honourable the Financial and Development Secretary which was resolved in the affirmative and the motion was accordingly passed.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, Sir, I beg to move the motion standing in my name in the Order Paper in the terms circulated. The Mediterranean Hotel was originally designed and built as a hotel and as such had only one main potable water meter. As the House is aware, the hotel has since been converted to 38 residential flats and the company installed 38 sub-meters to service each of the flats. The supply of water to the premises, however, continued to be billed on the existing main meter at the hotel rate which is of course the commercial rate. The company which administers the property and the residents in the flats have made representations to the Government submitting that the water supplied to flats in the premises should be charged at the domestic consumer rate which is lower than the commercial rate and that the billing should be calculated on the consumption of each sub-meter. The House may recall, Sir, that a similar concession was agreed by the Government in March, 1977, for Ocean Heights. The main points of the agreement are 1. The company will charge each apartment tenant the same water rate that the Government itself would have charged them had they been supplied direct through a mains meter; 2. The company will supply the Government monthly with a certified list showing the actual consumption by each apartment tenant; 3. The company will pay the Government in a single payment for all consumption calculated in accordance with the list and by reference of the total consumption of the whole building is recorded by the main meter; 4. The company will give the Government facilities at all reasonable times to check the lists; and 5. If there is a difference between the aggregate of the sub-meter reading and the reading of the main meter, the company will accept responsibility for payment in accordance with the readings of the main meter. Paragraph 2 of the Fourth Schedule to the Public Health Ordinance stipulates that any agreement so made should be tabled before the House of Assembly and that a resolution should be moved at the same meeting for the formal ratification of the agreement. The Government considers, Sir, that the arrangements will ensure that there will be full payment of all water supplied to the flats in the former hotel and that the tenants will pay for the water consumed as if it were supplied direct from the main meter. I commend the motion to the House.

Mr Speaker proposed the question in the terms of the Honourable the Financial and Development Secretary's motion which was resolved in the affirmative and the motion was accordingly passed.

The House recessed at 7.25 p.m.

WEDNESDAY 13TH OCTOBER, 1982

The House resumed at 10.35 a.m.

MR SPEAKER:

Before we proceed with the Order of the Day, I understand that the Honourable Financial and Development Secretary wishes to make a short statement.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Thank you very much, Mr Speaker, I am most grateful. Yesterday afternoon during the course of the motion on the Licensing and Fees (Amendment) (No.2) Schedule relating to the fees payable for the use of Customs Officers outside normal hours, the Honourable and Learned Leader of the Opposition enquired whether the Chamber of Commerce had been consulted about the increase and I was unable to answer. I had a word this morning with the Collector of Customs who reminded me that when we negotiated the fees in 1979 which was passed by the House in November, 1979, we reached an agreement with the Chamber of Commerce that any increases in fees would be linked to salary increases because the Government would not increase them more than once a year and of course it is 3 years since we increased them and we have increased them pro rata to salary increases so there was in fact no need on this occasion to consult the Chamber of Commerce. Thank you, Sir.

BILLS

FIRST AND SECOND READING

The Specified Offices (Salaries and Allowances) (Amendment) Ordinance, 1982.

HON CHIEF MINISTER:

Mr Speaker, I have the honour to move that a Bill for an Ordinance to amend the Specified Offices (Salaries and Allowances) Ordinance, 1979 (No.18 of 1979) be read a first time.

Mr Speaker then put the question which was resolved in the affirmative and the Bill was read a first time.

SECOND READING

HON CHIEF MINISTER:

Mr Speaker, I have the honour to move that the Bill be now read a second time. As the House is no doubt aware, Section 68 of the Constitution provides that any change in the salaries of servants in Specified Offices be prescribed by an Ordinance of the House of Assembly. I am told, incidentally, from the experience of my Honourable Friend the Financial and Development Secretary of many other territories, that normally this is done by an Order but the Constitution in our case says that it should be done by an Ordinance so we are doing it by an Ordinance as we have done in the past. The Offices concerned are those of Governor, Chief Justice, Deputy Governor, Attorney-General, Financial and Development Secretary, Principal Auditor and Commissioner of Police. The salaries and in certain cases the allowances payable to these officers are charges on the Consolidated Fund and are contained in the Specified Offices (Salaries and Allowances) Ordinance, 1979. As Members might recall, the Ordinance was last amended in 1980 to provide for these officers in respect of the salaries review agreed for all Government employees on the 1st July of that year. The salaries review for the senior grade for 1981 and therefore for 1982 is still the subject of negotiations with the IPCS, the Staff Association holding negotiating rights for the majority of the senior grades. Pending the final outcome of the negotiations an interim payment was agreed upon a few months ago in respect of the salary review on 1st July, 1981. The object of the Bill now before this House is to enable the Specified Officers to receive this interim payment in common with the other senior grades. The 1982 salaries will be covered by a subsequent Bill. However, since the preparation of this Bill, there is one particular salary, that is that of the Governor, which ought to be revised as from the 1st July, 1982, because he is not the subject of negotiation amongst the senior grades and, indeed, the salary of the Governor as from the 1st July, 1982, which has been agreed as £20,000 instead of £18,000 and £3,600 instead of £3,000 allowance, was cleared by myself with the Leader of the Opposition and Mr Bossano as we always like to make this not the subject of controversy. I will be bringing an amendment to cover this salary for 1982 as I wouldn't like the new Governor to arrive in Gibraltar and find, not that he is going to be very concerned, that the salary that he was indicated would not be payable until another Bill was passed, so in respect of that one I shall be moving an amendment to cover the increased salary as from the 1st July. Sir, I commend the Bill to the House.

MR SPEAKER:

Before I commend the Bill to the House does any Honourable Member wish to speak on the general principles or merits of the Bill?

HON P J ISOLA:

Mr Speaker, we support the Bill. We are a little concerned, however, that the negotiations for senior civil servants seem to be taking this inordinate time. I would have thought that senior civil servants by the very nature of their office would be able to come to an agreement in a much shorter time. What is holding up such an agreement? It seems to me incredible that 1982, October, the salaries up to July 1st, 1981, have not yet been agreed. Is it that salaries presently being drawn by senior civil servants is sufficient for them and therefore they are not in a hurry for settlement, they can afford to wait? This, to me, is quite extraordinary. I would have thought that negotiations of this nature would have been finished by now. But, anyway, Sir, this is not really the subject matter of the Bill. We support the provisions of this Bill.

HON CHIEF MINISTER:

I would like to answer that and I am grateful to the Leader of the Opposition for raising that matter because it is a very pertinent one particularly having regard to my remarks that the Bill now, in order not to make it controversial, can be passed because there has been an interim award for last year which was to be a standard award to all other grades. The difficulty about the senior grades is that a review at the request of the IPCS who hold the negotiating rights, a review was made by two experienced people from the United Kingdom and the report was made but there are ongoing negotiations about the grades by the Establishment with the relevant Unions with the negotiating rights. The reason why, if I may say so quite clearly, why there has not been another interim award this year which would have been able to make it possible to bring the whole of the Ordinance up to date is because we feel that this interim award protracts the negotiations because since they are getting the minimum anyhow, there is very little urge to try and bring about a final settlement. But the difficulty, I understand, is that though the union has negotiating rights for the whole of the spectrum, within the spectrum there are individuals that have got different claims in respect of themselves, and it is terribly difficult, no doubt for the union to be able to present a united view as between individuals in the grade. In fact, at some stage I understand that it was suggested that the individuals should make representations to those who did the staff inspection and present their case. Well, that would be rather odd, because in that case the union would be washing its hands of its responsibility to represent them all and putting them on to those who make the award or the speculation. I think a lot of progress has been made, unfortunately it has not been finalised, certainly not due to any delay on the part of the

Government but on the fact that it is rather a complicated problem even though the numbers of people involved are not very large, because within those grades there are competing claims as to those who think should be a little higher and those who think that they have been put too low and those who think that there are others who have been put too high. That is a problem.

Mr Speaker then put the question which was resolved in the affirmative and the Bill was read a second time.

HON CHIEF MINISTER:

Mr Speaker, if there is no objection I would like that the Committee Stage and Third Reading of this Bill be taken at a later stage in the meeting.

This was agreed to.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, for the record, let it be noted that the Attorney-General and myself have an interest in the Bill and therefore we abstain on the vote.

The Landlord and Tenant (Temporary Requirements as to Notice) (Amendment)(No.2) Ordinance, 1982.

HON ATTORNEY-GENERAL

Sir, I have the honour to move that a Bill for an Ordinance to amend the Landlord and Tenants (Temporary Requirements as to Notice) Ordinance 1981 (No.16 of 1981) be read a first time.

Mr Speaker then put the question which was resolved in the affirmative and the Bill was read a first time.

SECOND READING

HON ATTORNEY-GENERAL:

Sir, I have the honour to move that the Bill be read a second time. Members will recall that in 1981 an Ordinance was passed, The Landlord and Tenant (Temporary Requirements as to Notice) Ordinance to suspend the affect of any notice to quit or notice to increase rents in respect of a tenancy for a given period and it became necessary earlier this year because the Select Committee was considering the subject of rentals and the protection of rents, to extend the date to the 30th November of this year. As all Honourable Members I think know the Select Committee is still conducting its deliberations and the Government therefore considers it appropriate,

pending the completion of those deliberations, to propose that the freeze, if I can call it that, be extended one more time, namely, until the 31st day of March, 1983. Sir, the effect of this Bill would be to extend the freeze accordingly.

MR SPEAKER:

Before I put the question to the House does any Honourable Member wish to speak on the general principles and merits of the Bill?

HON P J ISOLA:

Yes, Mr Speaker. I am sure the Select Committee must be aware of the need to complete their deliberations because the delay in the production of a new Ordinance must necessarily, I believe, affect any development in Gibraltar, affect plans anybody may have for development in Gibraltar and, generally, stultify that sector of the economy. I appreciate it is a very, very difficult subject to come to conclusions on but nevertheless the freeze has now gone on for over a year and I think we should try and get some conclusions out by the next meeting of the House. Having said that, Mr Speaker, I think that the Committee should be given the Section of the economic diversification study report that dealt with the effects, or possible effects, on development of rent restrictions as such, or rent control. It seems to me that the report in question did indicate that with regard to the diversification of the economy and I am talking just in general terms because I appreciate it is a confidential report and therefore in general terms, it did indicate that the legislation was important when connected with development. I won't say more than that. I think that that particular section might be given to the Select Committee so that they can, if possible, look at their problems, and I know there are many, and add this one to them so that we can have a comprehensive report on the matter.

HON M K FEATHERSTONE:

Sir, I take the points raised by the Honourable Leader of the Opposition but I would comment that I do not think there has been any delay in the deliberations of the Select Committee. We started work almost as soon as we were set up in November last year. We have met, apart from the summer recess, practically every week. I don't want to pre-judge what the Select Committee is going to say but I can, I think, say at the moment that we have seen 39 separate entities who wanted to give evidence before us, we have had some 700 pages of evidence. This is quite a time consuming matter, some entities came to see us on 2 or 3 occasions and we felt that they all had to be given a fair chance to explain their views and of course it did take up a considerable time. The

position at the moment is, I would think, good. We are at the moment working on the draft report and the Honourable the Attorney-General from that draft report will be working on the new draft Bill. We would hope it will be presented to this House at a meeting which I think may be scheduled for some time in January. As I said there is, as far as the Select Committee is concerned, no specific delay, we are getting on with the job, we are meeting practically every week. The only time that we have not met, and we did meet occasionally during that time, was during the summer recess when one or two members happened to be away and we didn't think it was fair to pursue our investigations with half the committee absent.

HON CHIEF MINISTER:

Mr Speaker, I don't recall that part of the report which of course I gave a copy on a confidential basis to the Leader of the Opposition, but if he thinks that it is of any help to the committee, I am prepared to ask the Chairman to release the information contained therein without releasing the report. If that is going to be of any help to the committee I will, on the understanding that the confidentiality is kept, for obvious reasons, there should be no difficulty of on the basis of that, for the Chairman to release that part of the information to the committee.

HON ATTORNEY-GENERAL:

Sir, I beg to give notice at the Committee Stage and Third Reading of the Bill be taken at a later stage in the meeting, possibly if it is agreed, today.

This was agreed to.

THE ELDERLY PERSONS (NON-CONTRIBUTORY) PENSIONS (AMENDMENT) ORDINANCE, 1982.

HON A J CANEPA:

Mr Speaker, I have the honour to move, in the absence of the Minister for Education and Labour and Social Security, that a Bill for an Ordinance to amend the Elderly persons Non-Contributory Pensions Ordinance, 1973 (No.27 of 1973) be read a first time.

Mr Speaker then put the question which was resolved in the affirmative and the Bill was read a first time.

SECOND READING.

HON A J CANEPA:

Sir, I have the honour to move that the Bill be now read a second time. Sir, the object of this Bill is to increase the rate of the weekly Elderly Persons Pension from £12.50 for a single person to £14 for a single person, in January 1983. The increases Mr Speaker, is of the order of 12%, and if you take into account that for a couple the pension received would be £28 a week, the relationship that has tended to exist over the years with in particular Old Age Pension is being maintained whereby the Department has always tried to ensure that what a couple are receiving as I say in this case £28, will be slightly more than half what a couple receives under the Old Age Pension. Sir, I commend the Bill to the House.

MR SPEAKER:

Before I put the question to the House, does any Honourable Member wish to speak on the general principles and merits of the Bill?

HON W T SCOTT:

Mr Speaker, other than the more obvious Income Tax amendment which will be proposed from our side of the House at Committee Stage, on a general point it seems to me that as years go on, although the percentage is applied, or a similar percentage is applied to the EPP as is applied to the Old Age Pension, it seems to me that the disparity in cash terms becomes increasingly larger as the years wear on and I wonder whether Government has taken notice of this and bring the cash level of the EPP commensurate with some other form of relativity which would be more meaningful in cash value to the recipients.

MR SPEAKER:

Are there any other contributors? Well, then perhaps the Minister will reply.

HON A J CANEPA:

Mr Speaker, it was in fact in 1978 that the policy decision was taken that a couple in receipt of EPP should receive slightly more than half what a couple in receipt of Old Age Pension get because whereas in 1978 the Elderly Persons Pension was £5 a week, which is £10 for a couple, and a couple in receipt of Old Age Pension were getting £22.50, which was rather more than double, the situation was changed fairly dramatically at the beginning of 1979, at a time when the Old Age Pension increased by 33½% to £30 a week for a couple whereas the Elderly Persons Pension was increased by 60%, from £5 a week to £8 a week thereby providing a level

of £16 a week for a couple and since then that relativity has been broadly maintained. Other aspects of taxation may arise but the fact is that if what was done between 1978/1979 were to be done at every review, then in 5 years the Elderly Persons Pension would pretty well reach the level of the Old Age Pension and people who have not contributed over the years to the Fund, would from the Consolidated Fund be getting pretty well the same level of pension as those who have contributed. That in the view of the Government is manifestly unfair and has perhaps been up to a point the crux to the whole controversy that we have had over the years.

Mr Speaker then put the question and on a vote being taken the following Honourable Members voted in favour:

The Hon I Abecasis
The Hon A J Canepa
The Hon M K Featherstone
The Hon Sir Joshua Hassan
The Hon J B Perez
The Hon Dr R G Valarino
The Hon H J Zammit
The Hon D Hull
The Hon R J Wallace

The following Honourable Members abstained:

The Hon A J Haynes
The Hon P J Isola
The Hon A T Loddo
The Hon Major R J Peliza
The Hon G T Restano
The Hon W T Scott

The following Honourable Members were absent from the Chamber:

The Hon J Bossano
The Hon Major F J Dellipiani

The Bill was read a second time.

HON A J CANEPA:

I would like to give notice that the Committee Stage and Third Reading of the Bill should be taken at a later stage in these proceedings.

This was agreed to.

THE PRISON (AMENDMENT) ORDINANCE, 1982

HON A J CANEPA:

Sir, again in the absence of the Honourable Minister, I have the honour to move that a Bill for an Ordinance to amend the Prison Ordinance (Chapter 129) be read a first time.

Mr Speaker then put the question which was resolved in the affirmative and the Bill was read a first time.

SECOND READING

HON A J CANEPA:

Sir, I have the honour to move that the Bill be now read a second time. Mr Speaker, our current law provides for prisoners who are serving terms of imprisonment to be released after the expiry of two thirds of the sentence provided that no such reduction shall reduce the time in prison to less than 31 days. In 1980, a suggestion made by the Governors of the United Kingdom Prisons that remission should also be extended to prisoners serving very short sentences, was accepted in principle by the Home Secretary and an Order was laid before Parliament amending the relevant rule. This rule is, in fact, similar to our Section 35 of Chapter 129. It allowed remission for good behaviour to persons sentenced to a term of imprisonment of more than 5 days. This came into force on the 23rd February, 1981, a date which is not without due significance elsewhere. The Superintendent of Prison in Gibraltar feels that our legislation should also be brought into line with that in the United Kingdom in this connection as he considers that it would help not only to reduce in particular the prison population by releasing very short terms such as habitual drunkards, persons convicted of very minor offences, if they were to be of good behaviour whilst in prison. Mr Speaker, the Chief Justice, the Attorney-General, the Chairman of both the Prison and the Parole Boards who have been consulted, support the amendment and I have the honour to commend it to the House.

MR SPEAKER:

Before I put the question to the House does any Honourable Member wish to speak on the general principles and merits of the Bill?

HON A J HAYNES:

Mr Speaker, on the question of the prison, I would note that though provision here is made for a shorter term of prison sentence, nothing has been provided in this Bill for the remand prisoners and the conditions of the remand prisoners are not satisfactory. Government accepted this was the case as long ago, I think, as October last year, and still nothing has been done to improve their situation. Whilst I have no quarrel with this particular amendment, I don't feel that it goes far enough, Mr Speaker. I think we should have before us a greater commitment from Government towards the prison of Gibraltar. I have on another occasion, as I am sure Honourable Members will remember, said that the prisoners are sitting on a piece of prime real estate. The Moorish Castle could be

developed, as I said, not only are the prisoners sitting on a piece of prime real estate but similarly they are being treated in not the best fashion especially remand prisoners who have no facilities. The importance, particularly, Mr Speaker is that if a man is to be sentenced for a long period of time and no facilities are given, no training, the chances of rehabilitating him are slim. This Bill which proposes simply to reduce the time in certain cases does not go far enough, it does not understand the problems which the prisoners in Gibraltar face today. I would suggest that the prison today is not fit for a sentence in excess of two years and nevertheless there are prisoners of fairly long term duration and the Government, whilst making this reduction, is not bringing the other circumstances into line. We have also heard, Mr Speaker, that when the Government have tried to commission the building of a new prison they asked specifically that the figures be conservative or realistic and they were given a £4m project. That seems to be more than the Government are prepared to spend and we can obviously understand such a thing where there is very little money to spend £4m in a prison but we on this side of the House have asked for money to be allocated to building a new prison. I think it will be saving money in the long term if we can do something to mitigate and prevent crime at a future date through rehabilitation. If we can release to tourism and development the Moorish Castle Estate,

MR SPEAKER:

Yes, but let us not expand the orbit of the general principles of the particular Bill that we are talking about.

HON A J HAYNES:

Mr Speaker, what I am trying to say is that this amendment doesn't go anywhere near far enough.

MR SPEAKER:

Fair enough, then give the reasons why.

HON A J HAYNES:

The reason why, as I said, Mr Speaker, is that it doesn't do anything to improve the conditions at the prison, and that is what had to be undertaken, or the prison as a whole.

HON CHIEF MINISTER:

I should have thought, Mr Speaker, that the conditions at the prison are greatly improved by those who benefit from a bigger portion of remission by leaving the prison earlier, those are

enjoying a benefit not being in prison but what the Honourable Member has said has nothing whatever to do with the matter before the House. The remission now only takes place if the sentence is over 6 weeks I think, otherwise you get no remission, and what is intended is that any sentence above 5 days gets a remission and in fact maximum remission is one third of the sentence. With regard to those who are awaiting trial, remand prisoners, if they are convicted, apart from whether there are good conditions or not which is not the subject of the Bill, if they are convicted and they are sentenced to prison, the full amount of time that they have been waiting for trial is taken into account, not just a third, and then of course what remains of that, one third of it, they get remission but in addition to that we have the Parole Board, and the Parole Board which is a board of independent people, look at the prisoners' records after a minimum amount of time and remit either one third of the sentence or I think 18 months, after that you are eligible for parole. Of course, the prisons have never been fit for long sentences and in fact any longer sentence except for the last 3 or 4 years when sentences have been given of up to 4 and 5 years those sentences that have been given for 6 years, have been reduced by the Court of Appeal. Those prisoners who have been sentenced for longer periods, arrangements have been made for them to spend their time away from Gibraltar in a more fit place. The question of prison reforming is a matter of priority like everything else. If we had £4m available, I think that if we devoted it to a new prison and not to housing one would be under very great pressure to say why devote £4m to a prison and allow people to be living in substandard houses as is so evident in some respects. The views which were given by my Honourable Friend with regard to the repairs that have to be carried out to the prison in order to improve conditions until such time as we are in a position to build a new prison, will be done in such a way that they will be phased in order of priorities and the Government will then be able to decide how much money each year can be devoted to that because if we get a proposal for improvement to the prison costing say, three quarters of a million pounds and we can't afford to do that in one year, if it is done on a basis of a programme we would deal with priorities and devote whatever money can be devoted according to the state of the finances and the priorities of other claims and gradually, eventually, get better conditions. I think what the physical conditions of the prison lacks is made up to some extent by what I consider to be the excellent and human service given by the prison officers.

MR SPEAKER:

Are there any other contributors? Does the Minister wish to reply?

HON A J CANEPA:

No thanks.

Mr Speaker then put the question which was resolved in the affirmative and the Bill was read a second time.

HON A J CANEPA:

I beg to give notice, Mr Speaker, that the Committee Stage and Third Reading of the Bill should be taken at a later stage in these proceedings.

This was agreed to.

THE EDUCATION (AMENDMENT) ORDINANCE, 1982.

HON M K FEATHERSTONE:

Sir, in the absence of the Honourable Minister, it falls on me to propose this Bill. I therefore, Sir, have the honour to move that a Bill for an Ordinance to amend the Education Ordinance (No.11 of 1974) be read a first time.

Mr Speaker then put the question which was resolved in the affirmative and the Bill was read a first time.

SECOND READING

HON M K FEATHERSTONE:

Sir, I have the honour to move that the Bill be read a second time. Sir, the main feature of this Bill is contained in Clause 2(c) which allow the new regulations to be promulgated which will deal with independent schools and in particular we are thinking of nursery schools. Sir, the present standards to which the premises of nursery schools registered with the Department of Education should conform are contained in the rules for the standards for nursery schools premises 1965. During the latter part of 1980, the 18 nursery schools then registered with the Department of Education were inspected by appropriate representatives of the Department of Education, Medical and Health Services and the City Fire Brigade, under Section 75 of the Education Ordinance. In the course of these inspections, it became clear that a number of private nursery schools were contravening the more precisely defined criteria set out in the 1965 rules and/or were operating with regard to accommodation or otherwise in a manner which was unacceptable to the Director of Education in relation to the more general and substantive criteria of the rules. Some of the nursery schools were also criticised by the Medical and Health Services and also by the City Fire Brigade in relation to

environmental health criteria and fire precaution requirements, respectively. It is felt there is clearly a need, Sir, (a) to update and make more precise the criteria in the 1965 rules relating to premises, particularly in the light of more recent regulations relating to fire precaution measures and environmental health; (b) to provide for more appropriate and precise minimum statutory regulations relating to admission and the child adult ratio within the nursery school playgroup; and (c), Sir, to provide guidelines on appropriate educational and social programmes of work which can be undertaken in these nursery schools or playgroups. The proposed new criteria for inclusion in any new regulations were first considered by Government early in 1980 and the proposed nursery school regulations, 1982, represent the outcome of these considerations. These new regulations when promulgated will bring our standards for the establishment and control of nursery schools into line with those in the UK. Particular consideration is being given to space requirements, washing and sanitary facilities, drinking facilities, ventilation, lighting, fire precautionary measures, fire drills and equipment, manning levels and admission arrangements in an attempt to update and improve the standards, generally, with a view to closer control of nursery schools in the future, particularly those in the private sector. The two Government nursery schools already conform to the new regulations. Existing private nursery schools will be given one year from the date of promulgation of the Education Amendment Bill to meet the requirements of the new regulations. Sir, I must emphasise that our current nursery schools do a good job, a very good job indeed, and it is a known fact that children who have passed through nursery schools enter into the Government schools with a considerable advantage over those children who do not. The Regulations Sir, will not be draconian but they are based on the safety and on the good benefits for the children. Most schools, Sir, do meet most of the regulations that will be promulgated but there is a need to see that all regulations should be complied with. One of the features of the regulations may mean, Sir, that in certain schools the numbers which today are considered to be rather high on a pupil/teacher ratio, will have to be changed and this might mean that in certain circumstances the numbers taken into the schools will have to be reduced. This will to some extent throw a number of children out of the possibility of those schools but other schools can be set up and there will be no difficulty in granting permission to new nursery schools as long as they meet the regulations. We do not think, Sir, that great hardship will be caused to the people who run these nursery schools and we feel sure that they themselves will be happy to see that they are actually falling in with required standards both in health and in fire protection. The new regulations, Sir, will be promulgated before the end of this

month so that the one year will be a year all but two or three days and if anybody goes over the year by a few odd days I don't think we will be sticky. I, therefore, Sir, commend the Bill to the House.

MR SPEAKER:

Before I put the question does any Honourable Member wish to speak on the general principles and merits of the Bill?

HON A T LODDO:

Mr Speaker, we of course agree with anything that goes along to put nursery education on a sound footing and on an acceptable footing. Mr Speaker, although the Government have been considering this since 1980, to me it is completely new and I think that perhaps we could take just slightly slower and not go through the whole procedure of the Bill today. There might be people who would like to make representations to Government or Opposition and I am a bit worried that we seem to be belting along with all our legislation and there is a whole pile to go through. I would be far happier if we were given a bit more time to really digest this important piece of legislation. Other than with that reservation, we are quite happy to go along with it.

HON MAJOR R. J. PELIZA:

Mr Speaker, I would like to support my colleague in this matter. It is perhaps a much more important matter than perhaps we sometimes realise in this House, the importance of having good nursery schools. I think that his statement is a very valid one. For the first time people in Gibraltar, and particularly mothers, who are very much dependent on nurseries to carry on either work privately outside the home or just to carry out the burdens of a mother at home, it is very important to have nurseries. I think they should know something about this in case they want to make some representations to the Government or to ourselves on this matter, and as it has been waiting so long, nearly two years under consideration by the Government, extending the time a little further could do no harm at all and I think it is only fair that we should do it. I can't think that there is a hurry in any other sense because as far as I know there has been no epidemic because the conditions of the nurseries have been such that they are not satisfactory, so whilst one welcomes the raising of the standards of the nurseries in Gibraltar, I think one should also take into account the hardship that it could cause if some of those nurseries were suddenly to close because they just couldn't manage or because in the particular district where that nursery is there is no way of finding another place or another person who would be interested in

having a nursery. There are the complications of taking the young child to the nursery and bringing him back, that is a problem, I know by experience, so I don't think we ought to rush into this. I think it would be very welcome to raise the standards and I think mothers generally in Gibraltar would welcome that very much but like everything else it has got to have a balance and I hope the Minister will take note of this, that we should give the matter a bit more time to work it out. I would like to have in more concrete terms not just that it would not affect the existing nurseries and how many of them comply with the standards that are going to be set and how many of them could survive if the standards were applied. I would like to know in terms of facts and figures what the position is and not generalise and say; "Well, most of them will be able to complete and if they don't do it within the year, perhaps we will allow them a couple of more months to do it and it will be alright". Another thing is, how much is this going to increase the cost? This is another factor that we have got to take into account. I also would like to know what is the policy of the Government nurseries, for instance. Who are admitted and how are children admitted into Government nurseries. Is it just for working mothers and nobody else? Is any priority given to any particular people like civil servants, or teachers, for instance? These are matters that I think need going into and I when the Minister replies; would like to know what is the criteria used for admittance into Government nurseries. Are there plenty of vacancies there, or is it very difficult to get in? How much do they pay in Government nurseries, if at all, and how much have they got to pay outside? All these matters I think are very serious matters, and we of course don't realise it because perhaps we are very remote from the small or big young family in Gibraltar but I am sure that it is a matter that needs a lot of consideration, it is a matter that should be put out to public debate so that mothers themselves can make representations and this is why I think we should give more time to this Bill and I hope the Minister will accede to that.

HON ATTORNEY-GENERAL:

Mr Speaker, I wonder if I may explain something which I think will help the Opposition on the point that is concerning them. When these proposals were first submitted for drafting, the proposals were to prepare regulations and the regulations were to provide for approval of the schools and the various conditions which would be required to be satisfied before approval could be given. When I looked at it, I realised that the Ordinance itself already had the system of approval of schools. The Education Ordinance contained the system, it had already been enacted and it seemed to me, therefore, that the regulations had to be reframed to take that into account. At the same time I felt that the Ordinance should make it quite

clear that regulations could supplement the requirements for approval by prescribing additional conditions and, basically, that is what these regulations will be doing. The reason I mention this is that I had myself seen the Ordinance as such as really rather a technical provision, not really introducing anything new in principle unless the Opposition were to take the view that to be able to prescribe conditions in regulations, to take the view that at that level of generality that that is objectionable on principle. Well, they may see it that way or they may not but if they don't think that that in itself is anything more than a machinery provision, then I think that the points which have been made about the need for consideration are points which are really to my mind addressed to the content of the regulations rather than to this amendment which in my view is technical. Of course, the Bill itself does make a more substantive change.

HON MAJOR R J PELIZA:

If the Honourable Member will give way. Alright, they did exist but nothing was being done, it was a dead letter and as long as it remains a dead letter, there can be no convulsion if suddenly this is going to be applied, it is indicated in the Ordinance that in a year it is going to be applied, that means that the regulations are going to become effective and they will have some effect generally, and it is the effect that we are very conscious of and this is why I say give time, and perhaps in the light of the representations that are made it might be necessary, it might be a good idea to change the regulations, this is what I am trying to say, this is what I meant.

HON ATTORNEY-GENERAL:

Yes, I understand the point Mr Speaker, and of course it is the intention to promulgate regulations but my point was simply that the content of those regulations, the substance of them, seems to me to be more a matter for the regulations. I realise this is the opportunity to comment on them but nevertheless it does seem to me to be quite a technical Bill except of course that on a completely different issue it also increases penalties and it does also contain a substantive provision, I agree, an additional provision, to direct schools to come into line with new standards.

HON P J ISOLA:

Mr Speaker, having heard the Attorney-General, I still agree entirely with what has been said on this side of the House by my Honourable Friend Mr Loddoo and my Honourable and Gallant Friend and fellow grandfather. Mr Speaker, Government does not accept any responsibility for nursery education, and I

believe it has one or two nursery schools and on principle it seems to me wrong that they should seek to control private education, paid for by parents and to private institutions, in a manner that it is proposed now. In other words, to give the Director of Education complete power to decide how a nursery school should be run, what standard it should adopt, it doesn't matter about the cost the Government is not paying, and I wonder if the same criterion is applied by the Government itself to its own educational policy because we have seen for the last 3 years a very real decline in Government expenditure on education and the same Director of Education, through the Minister, has told the House; "Oh, no, there is no decline in standards; it is no longer necessary to have more students for this. We don't need as many books as we had in the last year". And we know that there has been inflation of 10% or 15% in the last 3 years and we would have expected a similar rise in the vote for books and equipment and there wasn't, it stayed the same figure. But, of course, there the Director of Education, because it was public money involved, chose to say it was alright. Now when it is somebody else's money, he is going to be given full powers to decide how that someone else should run their school. It is a matter of principle. I don't disagree and in fact we agree with the Bill in the sense that we agree that nursery schools should meet certain standards. What we don't agree is that regulations should be promulgated by the Director of Education or the Government without consultation with the people who are going to pay. We think that the nursery schools should be brought in by the Director of Education. He shouldn't be allowed to be a little dictator who says; "You either do this or else I close your school". I think there is a question of Government standards here and that is why we don't think that the Committee Stage should be taken, not because of the technicalities but because this Ordinance enables the Director of Education precisely to change the conditions, prescribe new conditions, whatever they may be, whatever the costs, whatever the desirability or otherwise, whatever the regard to the circumstances of Gibraltar are concerned and change them and that is it. And we think that since the Government is not paying for nursery education, and some people think that Government should have that responsibility and I must say that I do not myself subscribe to that view not because it would not be a desirable objective but because I believe that since the funds available to Government for education are not unlimited, there are better ways to spending monies available for education than in taking the huge commitment of nursery education. But Government cannot then say; "Alright, you do it privately and you jolly well do everything I want no matter what the cost", when I myself look at the question of costs when I am deciding how much money I am going to give to education. I am not saying that is going to happen, Mr Speaker, but what I am saying is that since it is private education and

since certain standards I agree have to be met in private education, nevertheless, whenever possible, it should be done in consultation with those who pay for private education. I also have grandchildren in a nursery, Mr Speaker, and I know the cost of a nursery school and, frankly, I am surprised at the low cost of nursery education in Gibraltar. I am very surprised. In fact, it is cheaper to put a child into a nursery much cheaper, than to employ, for example, an au pair girl to take him out in a little buggy. It is cheaper in fact, nursery education in Gibraltar is quite cheap and I would have thought that it may be possible by agreement, prices to be increased, facilities to be provided, but I do think, Mr Speaker, that as a matter of principle we should not allow the Director of Education to exercise his powers under this Ordinance in an absolute fashion, there should be consultation. We have heard about regulations, these regulations in my view should be discussed by the Director with those concerned in the education and then if they come to an agreement it is fine with us. If they have a point of view to put why should they have to first of all fight the regulations passed, directives given to them which they feel they cannot comply with for one reason or another, and then they have to have the uphill struggle of trying to get the regulations changed. I think the principle must be of consultation and as far as we are concerned we support the Bill, we want educational requirements to be set down in nursery schools as, indeed, in Government schools and everywhere else but they are going into an area that the Government is not paying for so let them consult those people involved. Parents may wish to be consulted, as my Honourable and Gallant Friend here said, it is very convenient to be able to send a child only 100 yards to a nursery school than having to send him that much further and sometimes in some cases it is impossible. Let the Director of Education, Mr Speaker, and I am sure Honourable Members will agree, spend a little time discussing with the people involved the sort of regulations he would like to see in nursery schools. Let him explain to them nicely, for example, what are the standards of nursery schools in England and explain his reasons for it rather than just promulgating legislation, promulgating regulations and giving directives. Mr Speaker, for those reasons we feel that this is the sort of Bill that should follow the usual practice and be left for a Committee Stage for the next meeting because we must also remember, Mr Speaker, that the Bill itself was only given to us I think it was about 8 days before the meeting and obviously hardly gives anybody time who wishes to make representations on it to give it and since there is a matter of principle involved in this Bill, we would not agree to take the Committee Stage of the Bill later on in this meeting.

MR SPEAKER:

Are there any other contributors?

HON A J CANEPA:

Anyone would think, hearing some of the Members opposite, that the Government was introducing a piece of legislation in a draconian fashion, requiring people to meet the requirements of the regulations almost overnight. No one has stated the fact that they are going to be given at least 12 months. But I agree with the principle of consultation on this matter, some of the people concerned have been running nurseries for very many years and it may not be possible even in a period of 12 months for some of them to conform and I know that it is the wish of Council of Ministers, because we discussed this, that every facility should be given and every opportunity should be given to people notwithstanding the periods laid down in the regulations to conform. But what I am slightly disappointed in is, that all my children have been in nursery and my nieces and nephews go to nurseries, and I am very grateful to the people who run these nurseries because they are very kind to children and the children are very happy. But no one has stated that some of the nurseries are most unsuitable. Some of the nurseries are little more than a room which is part of a house or a flat and they are most inadequate. There are no play-ground facilities, the toilet facilities are inadequate, washing facilities for the children are inadequate, one has said that and because it is very convenient or advisable to send 2 or 3 year-olds to nurseries, we have been allowing over the years businesses to be set up, and they are businesses, without conforming at least to minimum requirements.

HON P J ISOLA:

I don't know the question in detail. My own personal experience of this matter is that if it is one thing that they are not, it is business. They could make a lot more money than they are making. I can assure the Honourable Member.

HON A J CANEPA:

It is done for business, Mr Speaker. It is not like in the case of Government where Government has an obligation to provide education. The rates are very reasonable, they are extremely reasonable, but obviously it brings in a little bit of welcome income, usually for a lady, with the added convenience of not having to leave home which is also a good thing in its favour. But if we expect shops and places of work to have to meet minimum standards, I think we should also insist that the matters that I have mentioned, toilets, washing facilities, ventilation, fire precautions, all these matters have got to be met and they must be set at a reasonable level. The Government, I think, runs two nurseries, one at Varyl Begg Estate which I think is a pretty good and

reasonably modern nursery. It used to run another one where the Teachers' Centre is in Hargraves Parade, which was inadequate. It has been moved to where Castle Road School used to be and the Government has had to incur some expenditure in carrying out modifications to meet the requirements of 2 or 3 year-olds which are not the requirements of 10 and 11 year-olds as was the case when Castle Road was a school. The Government has to conform and I think that with a reasonable approach we must ensure that children that are sent to nursery schools do so under reasonable conditions and I will stress the word reasonable. There is no intention on the part of the Government and therefore it will not allow its Education Department to proceed on this manner in a draconian fashion. That will not happen but I think we are agreed on the Government side about the fundamental need for a study to be made as to nursery conditions and as a result of that study to promulgate reasonable minimum requirements.

HON CHIEF MINISTER:

Mr Speaker, on the question of the reading of the Bill, we are quite relaxed about that. If Honourable Members don't want to have the Committee Stage this time it doesn't matter because there is going to be plenty of time. But I think we can go one further because that was always the intention, certainly, that there should be consultation and that is that the draft regulations when the Bill is passed at the next meeting, the draft regulations will be circulated to all those who are running nurseries and they can make their points of view. In many cases, it will mean no more than reducing the number of children to approved standards. It may well be that there is a room which is fit for 10 young children and not 15 or 16 because of the requirements of toilet facilities and washing facilities and so on. This is really what we are looking at and this is what we want. When we had the Bill in draft, I have not looked at it recently, we said that there would be a minimum of a year which means that the Director would have even longer time if representations are made. I think the best thing would be for the regulations in draft to be circulated to those who have nurseries. I agree that sometimes Bills do not get enough time and we are not going to insist on having the Committee Stage and Third Reading at this stage.

HON MAJOR R J PELIZA:

Will he also circulate the conditions laid down for the admittance into the Government nurseries and the criteria and how this is done. That would be very welcome?

HON CHIEF MINISTER:

The conditions of the limited one may be with regard to residence. Well, we would not expect to ask people to have better standards than the Government can keep and if we are below those standards, we should put them up.

MR SPEAKER:

You are being asked whether you are prepared to disclose the conditions under which nurseries are run by Government.

HON CHIEF MINISTER:

Yes, of course, there is no secret about that. The only point, of course, is that there is a limited space and there is some criteria to try and do justice. Whether this is being done well or not I don't know.

HON J BOSSANO:

Mr Speaker, I disagree with the whole approach to this from both sides of the House. I think that we are talking about an area where two totally different sets of institutions are used as if they were one and the same thing and they are not. The Minister for Economic Development, in fact, has switched throughout his contribution from the concept nursery to the concept nursery schools several times. He said the Government has two nurseries. The Government has no nurseries. The Government has got two nursery schools and there are no private nursery schools, there are only private nurseries and they are totally different, one thing has got nothing to do with the other. A nursery is a place where they look after children below school age, they look after them, they don't educate them and I am totally opposed to the Government making regulations to control private education and to call them schools and to provide for private education. Because in fact, the Government itself last year switched from nursery to nursery schools and as a result of that displaced the people who were employed in those schools because they were not qualified teachers and they said that; "now that they are nursery schools as opposed to nurseries, they have to be controlled by a qualified teacher" and I don't see how the Government to its own employees can actually tell people that they are redundant to Government requirements because they are not qualified to teach in a nursery school, and yet licence private schools where the standards in terms of education are below the standards that the Government itself considers inadequate in its own schools. I am totally opposed to the regulation of private nursery schools. As regards private nurseries, which are a completely different thing.

MR SPEAKER:

I think they used to be called "kindergarden".

HON J BOSSANO:

Yes, it used to be called kindergarden but they are called day-nurseries and they are called play-groups but they mean

the same thing. There is a private system in UK where basically in many areas it is a question of friends and neighbours getting together with one parent looking after the children of the neighbourhood because other parents go out to work; and that sort of thing, which was the original concept in the Government service itself, the Government started its nursery service not as an educational service but in order to give married women the opportunity of going out to work and being confident that their children were not in danger of being alone in the house and were properly looked after. That is one function that has nothing to do with education. It has to do in fact with encouraging married women to enter employment. The conditions attached to entering into a Government nursery was always that the mother had to be in full-time employment, so it had nothing to do with education, because one cannot make an argument in educational terms to say that if the mother works the child should get a better education than if the mother doesn't work. I fully support nursery education and I disagree entirely with the Leader of the Opposition when he says that in terms of choice, if one has to choose between devoting money to one area of education or the other, then the poor member of the family must be nursery education because, in fact, there is a wealth of research that has been done in this area and shows that it is the most disadvantaged group in society that benefit most from nursery education because they tend to get in a nursery school what they fail to get in the home. One of the big advantages of nursery education is that, generally speaking, as a general rule, working class homes tend to have less books, less newspapers, less reading material than middle and upper class homes in terms of social class, and therefore, quite often, the child from the working class home is introduced to reading for the first time in primary schools whereas the middle class child is already quite fluent when he enters school and that gives him an advantage throughout his school career and there is a wealth of information done in UK in this particular area. I happen to know because I was studying in that area myself, Mr Speaker, There is no question about it, the Honourable Members can go and check for himself if he doesn't believe me. Most of the work has been done by a Professor Benskin in the London School of Education, it is the School of Education in the London University which specialises in this area and in the development of language in pre-school children and it is in fact well documented that the vocabulary of a child that has been in a nursery school and the vocabulary of a child that entered straight from the home into a primary school shows a substantial difference. Obviously since the media of instruction is English particularly in Gibraltar where quite often in working class homes children here constantly speak Spanish, when they enter primary school they have a disadvantage if it is the first time they encounter the English language. A nursery education prior to a primary school does a great deal to remove the disadvantage and therefore I am,

totally in favour, my party is totally in favour of the expansion of nursery education as education, not as a day care or kindergarden centre and that that should be the responsibility of the Government and that that should lay down clear educational standards and that should be in the hands of qualified people. I don't accept that one can expand that area into a private centre and regulate and control and call them nursery schools because they are not nursery schools. For those reasons, Mr Speaker, I cannot support the Bill, because in fact, in the explanatory memorandum of the Bill, it talks about controlling schools and I don't think they are schools. I accept entirely the point made by the Leader of the Opposition that if we are talking purely about private nurseries where young children are looked after and where the parent is effectively paying for it and the Government is not contributing anything, effectively what the Government is saying is that it has the right to protect people against themselves or to protect children against their parents. I think, really, it is the parents' primary responsibility to ensure that if they are paying for a nursery the children are in a place where the conditions are adequate and there are safety requirements. I find it difficult to understand that parents can be so irresponsible, really, because there is no other word for it, as to pay privately for their young children to be in a nursery with inadequate standards. It may be that they have no option but I think it is difficult to believe that they have no option because if the parent is working and they need to have the child out of the house because they are working, then the Government nurseries have got empty places. It isn't full up. I can assure the Honourable Member that the Government nurseries are not full up. There is spare capacity. The problem is that the criteria continues to be that of employment and I disagree entirely with the Government doing this because if they are providing education, I don't see why a child should be deprived of the opportunity of getting a nursery education because the mother doesn't work. If it is a question of providing a facility to relieve the mother for employment then it is a different thing altogether. I really think, Mr Speaker, that it is an area which I see as a controversial area but not for the reasons that have been put up to now but because we are mixing two completely separate things and I think the Government should really be concerned about the benefits that can be brought about by providing nursery education. If they go along to their own department and they ask their own department to do something on the results of the children that have come from the Government nursery into the school system and the ones that have not, I think that the evidence is there for the Government to see. The benefit is there throughout the school life, it doesn't stop at the end of the nursery education, it is like planting a seed at a very early stage and it takes root.

MR SPEAKER:—

If there are no other contributors I will call on the Minister to reply.

HON M K FEATHERSTONE:

Sir, the Honourable Mr Bossano has raised a point which at the moment I do not think Government can commit itself to and that is that all nursery education, in other words, education before the statutory age of 4+ should be in Government hands, should be in Government hands with qualified teachers and what have you. This might be perhaps an absolute utopian solution but I am afraid it would be a very costly one and it might be to some extent somewhat difficult to administer because again the question of whether a parent wishes to send a child under the age of 4+ to some form of education might have to be laid down by statute. The position, Sir, is that over many years not only here but also in the UK, there has been these, what are loosely termed, nursery schools, to some extent they are nurseries, kindergartens, whichever word you like to use, to a great extent it is basically looking after the child to give the parents an opportunity to do other things but its grown up over a considerable period of time that while the child is taught amongst other things how to play, how to cope with other children, etc., a certain amount of minor education is also given. They learn, for example, the ABC, the days of the week, the months of the year, how to count up to 10, some schools give a little more education than others, some give more on the question of playing, to some extent this playing can be classified as a type of education. They learn to play with such things as plasticine and what have you etc. The Government feels that at the moment these, and I will use the term loosely, nursery schools, are doing a reasonable good service to the community and they cannot accept Mr Bossano's view that the whole of that operation should be subsumed by Government. Now, Sir, with regard to the present Bill, the present Bill, apart from the clauses where it actually increases penalties for certain offences, is basically a Bill stating that regulations may be promulgated and I would suggest to the Opposition that it might not be unreasonable to allow the Bill to pass through at the present stage because even if we give 3 months it is still not going to be very much use to anybody to consider whether regulations may be promulgated or not. What I would suggest is that regulations should be drawn up in draft, should be circulated to the general public and specifically to anybody who runs a nursery school, that a 3-month period should be given during which consultation and representation may be made to the Department of Education following which the regulations will then be promulgated de facto. The situation also states that the 1 year period of grace to put the schools into order, does not commence until a notice is sent by the Director of Education and the Government will give the undertaking that the Director will not be draconian, he will consult with the schools first, give them ample warning of what is required, and then send through the official notice saying: "Now you have been told what needs to be done, etc., I give you one

year to do it". I accept that this may in some instances be a cost to the people concerned but I am sure the Members of the Opposition, when they know all the facets of the requirements that the Government is going to suggest for nursery education, will come round to our way of thinking. As my Honourable Colleague has mentioned, there are instances and we know of such instances, regrettably, in which perhaps 15 or 20 children are put into a rather small flat in the care of one person with hardly any other washing facilities than the flat has for the actual tenants of the flat and this to some people may be considered to be satisfactory, to other people and especially to the Medical and Health Department and the Department of Education, is not as good as we would like to see it. As I said, the regulations, I have seen the regulations, are not draconian but we are willing to put them in draft, to give a 3-month period of consultation after which they will then be put forward specifically. I would suggest that perhaps in the desire to move things forward, we can pass this Bill today which is simply an enabling Ordinance to say that regulations can be made. I commend the Bill; therefore, to the House.

HON W T SCOTT:

Mr Speaker, if the Honourable Member would give way before he sits down. It is only a point of information because we have been talking here about the criteria for the admission of children into Government schools. Is the criteria for the admission of a child solely that the mother should be employed or that the mother should be employed in Government service?

HON M K FEATHERSTONE:

No, that the mother should be in full-time employment anywhere in Gibraltar.

Mr Speaker then put the question and on a vote being taken the following Honourable Members voted in favour:-

The Hon I Abecasis
The Hon A J Canepa
The Hon M K Featherstone
The Hon Sir Joshua Hassan
The Hon A J Haynes
The Hon P J Isola
The Hon A T Loddo
The Hon Major R J Peliza
The Hon J B Perez
The Hon G T Restano
The Hon W T Scott
The Hon H J Zammitt
The Hon D Hull
The Hon R J Wallace

The following Honourable Member voted against:-

The Hon J Bossano.

The following Honourable Members were absent from the Chamber:-

The Hon Major F J Dellipiani
The Hon Dr R G Valarino

The Bill was read a second time.

HON M K FEATHERSTONE:

Sir, it seems we have a little division on our side. I would suggest that the Committee Stage and Third Reading be taken at a subsequent meeting of the House.

MR SPEAKER:

Fair enough.

THE WIDOWS AND ORPHANS PENSIONS (AMENDMENT) ORDINANCE, 1982

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Widows and Orphans Pensions (Chapter 159) be read a first time.

Mr Speaker then put the question which was resolved in the affirmative and the Bill was read a first time.

SECOND READING.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I beg to move that the Widows and Orphans Pensions Amendment Bill, 1982, be read a second time. The Widows and Orphans Pensions Ordinance was enacted on the 2nd of April, 1958, and came into operation in November, 1961. It applies to employees of the Government and of the then City Council of Gibraltar. Section 32 of the Ordinance provides that all employees who were in service prior to the 2nd of April, 1958, would become contributors to the scheme unless they opted out of the scheme altogether. In other words, this was what one might term a negative approach, you were in unless you opted out. That option had to be exercised in writing by the 1st of January 1962. Officers who did not opt out in writing by 1st January, 1962, had to make an option as to whether they wished to pay current contributions based on 1½% of their salary and 3¼% of their salary in respect of arrears based on their recurring salary where applicable. In other words, you could either pay 1½% of your salary every month or you could pay on the basis of your retiring salary at the end of

your service. If you paid monthly on your current salary the amount paid was tax deductible. If you paid from your gratuity a lump sum based on your final pension emoluments, only a small part of the amount would be tax deductible because there is a limit under the Tax Ordinance to what is allowed for tax deductions on a pension in any one year. Officers who had not exercised an option in writing by the 1st of January, either opting out of the scheme or to pay a current contribution, were considered to be contributors but their contributions would be deducted at a lump sum from their gratuity on retirement. Officers appointed to the permanent and Pensionable Establishment on or after the 3rd of April, 1958, do not have an option to elect out of the scheme, and are therefore compulsory contributors. However, on joining the service, and on joining the scheme as a compulsory contributor, they do have to elect whether to pay the current contribution of 1½%, or by a lump sum deduction of their gratuity at the end of their service on the basis of their final pensionable emoluments. If they make no election within 3 months of joining the permanent and pensionable establishment, they pay by deduction of a lump sum from their gratuity. As soon as the scheme was being implemented in 1962, a number of officers made representations to the effect that they had not seen the circular explaining in detail the operation of the fund and inviting them to make options, either to opt out of the scheme or if they wanted to stay in the scheme whether they opted to pay the 1½% of their monthly salary or a lump sum from their gratuity at the end of their service. Some of the officers argued that they had been away from Gibraltar on holiday or on study courses, and this particularly applied to teachers. Other officers maintained that they had written in, they had opted out of the scheme, but their options must have been lost because there was no record on their files. The Government did not necessarily accept all of these representations. However, by 1971, there was much discontent at the method of the negative option that the Government decided to meet the Staff Side Representations in part by giving a second opportunity to officers who had to pay all contributions by a lump sum deduction, in other words, those who were not paying by monthly deduction, and a number of officers took advantage and switched from the lump sum payment from their gratuity to the one 1½% payment from their monthly salary. Those who did so, were required to pay arrears at 3¼% of their salary plus 3% interest on the balance outstanding until the arrears was paid off. Shortly after 1971, a few officers again complained that they were being regarded as contributors on retirement when in fact they were under the impression they were not contributors at all. Two officers who retired found that about a quarter of their retiring gratuity had been deducted in respect of contributions due under the Widows and Orphans Pensions Ordinance and they objected strongly and insisted

that they had in fact opted out of the scheme altogether. The official side in discussions with the staff side, maintained the view that there was no question of opting out of the scheme unless such option had been exercised in writing by the 1st of January, 1962, and that the only possible movement after the 1st of January, 1962, was on the method of payment. By 1978, the discontent of the staff side had grown enormously, a few more officers had retired between 1973 and 1978 and had had substantial deductions taken from their gratuities in respect of contributions due. The option form given to new entrants or promotees into the permanent and pensionable establishment between 1962 and 1978 was ambiguous and appeared to allow an option whether the employee wished to be a contributor or not and, thirdly, a number of officers still maintained that they were not contributors because they had opted out of the scheme in 1962. In fact, as the House will realise, the situation was thoroughly confused. In December, 1979, the Staff Association's Coordinating Committee lodged a formal claim asking that the whole question of options be reviewed. An in-depth study of the whole matter was made and the conclusions reached, inter alia, were that the negative option approach used in 1961 was a non-satisfactory system and that there was justification for allowing a final option on the method of payment. Future entrants should, however, be required to pay current contributions compulsorily. This point was put to the Government's Pension Adviser who agreed that a final option on the method of payment should be given to officers. The purposes of the Bill before the House, Mr. Speaker, are therefore, first of all, to give a final opportunity to the officers in the Widows and Orphans Pension Scheme who have not made an option on a method of payment and who would, consequently, otherwise have contributions deducted on retirement, to decide whether they wish to make their payments currently from their current salaries. If they do, then they will pay the 1½% plus 3½% to cover arrears and a 3% compound interest. Secondly, to require every person who becomes a contributor to the scheme, on or after the 1st of January, 1983, which is the date proposed for the commencement of the Bill, to make his contributions by way of periodical payment under Section 12. In other words, there would not be an alternative means of deduction from Government pension and gratuity at the end of his service. The Government considers that it is only equitable to give officers who have retired and who had not elected to pay contributions under Section 12, and who have had to pay contributions in arrears by way of lump sum deductions from their gratuities, an equal right to exercise an option now with retrospection so that their contributions can be re-calculated at what the rate would have been had they paid at 1½% of their salaries. The number of retired officers concerned is only 30 and the number of officers concerned still serving who have to opt as to whether they wish to continue payment at the end of their

service by a lump sum payment from their gratuity, or whether they wish to pay at 1½% of their salary for the future, paying off arrears at 3½% is only 30 in number. I have had some figures prepared so that I can give members some idea of the differences that lie here and may I say, Mr. Speaker, that I would like to announce publicly my gratitude to a young Executive Officer in the Accountant General's Department, who worked late hours in order to prepare these figures for the House. Of the 10 officers who have retired, the difference between the amount deducted from their gratuity and what they would have paid if they had paid 1½% on their current monthly salaries, is £5,600, thereabouts, so that if all of them elect, and I think they will elect, because they will get a repayment, the cost to the Government is going to be under £6,000. I think it is interesting to note that an officer who at the end of his career had to pay from his gratuity £306 would, even with the 3% interest which is charged, only pay £207. In other words, he gets a refund of about £99, and the difference between a senior officer who pays monthly at 1½% of his salary throughout his career or pays a lump sum at the end of his service, the difference can be about four times. If for example, he would pay, say £2,000 by 1½% deductions throughout his career and that would be tax deductible, he would get part of that off in tax relief, he would pay something like £8,000 out of his gratuity. I would like to stress to the House that this sounds as if it has been a complete shambles. It is not unusual in any territory for this problem to arise. What normally happens is that, and I have had to deal with cases myself when I have been on establishments elsewhere, is that you talk to a young officer and you say to him: "Do you want to go into the Widows and Pensions Fund or you have to go into the Widows and Orphans Pension Fund," he realises that, he has just got married, fine you then say: "Do you want to pay 1½% of your salary each month or would you prefer to pay out of our gratuity at the end of your service?" When you are young and recently married, a pound in the hand is worth a couple in 30 or 40 years time. But as you get older and as inflation ups your salary and as, hopefully, you grow more senior and get a greater salary, you suddenly begin to realise that at the end of your service you are going to pay a hell of a lot of money, if I may use the term, Mr. Speaker, out of your gratuity when you retire and you begin to wish that you had in fact taken the 1½% monthly payment instead of the payment from your gratuity at the end. And so, Sir, for this reason, we are in this Bill amending the system so that officers must not only be compulsory contributors to the Widows and Orphans Pension Fund but also it will be compulsory for them to pay 1½% of their salary so that the problems that have arisen, as I have stated, do not arise in future. Mr. Speaker, I commend the Bill to the House.

MR SPEAKER:

Before I put the question to the House does any Honourable Member wish to speak on the general merits or principles of the Bill?

HON W T SCOTT:

Mr Speaker, we generally welcome a Bill of this nature, a measure of this type, and we agree that where an option was not exercised by a possible recipient in years to come, another opportunity should be given to that individual. But we would have hoped to have seen, Mr Speaker, a Bill similar to this Bill relating to old age pensions because an opportunity was given to those people some years back who did not have an opportunity to contribute weekly or monthly towards social insurance, for them to be able to do so. If I remember correctly the period was extended by a few months. It seems to me rather disparaging to regard civil servants one way and the rest of the public in another. We would have hoped to have seen, Mr Speaker, a Bill similar to this which would have applied also to people who perhaps were not under the circumstances able to have paid these arrears within the time prescribed at the time contributions became compulsory. That is all, Mr Speaker.

MR SPEAKER:

Does the Honourable the Financial and Development Secretary wish to reply?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I will merely say that the Government takes note of the Honourable Mr Scott's comments.

Mr Speaker then put the question which was resolved in the affirmative and the Bill was read a second time.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I beg to give notice that the Committee Stage and Third Reading of the Bill be taken at a later stage in the meeting, if necessary, today.

This was agreed to.

THE COMPANIES (AMENDMENT) ORDINANCE, 1982

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Companies Ordinance (Chapter 30) be read a first time.

Mr Speaker then put the question which was resolved in the affirmative and the Bill was read a first time.

SECOND READING.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, Sir, I beg to move that the Bill be read a second time. The object of this Bill is, first of all, to allow His Excellency the Governor, with the prior approval of the House, to increase fees in the Eighth Schedule of the Ordinance by Order. This is new to this Ordinance but there are ample precedents for this more convenient procedure and under modern legislation techniques I think that it is usual that where there are fees of this kind, it is usual for them to be made by Order subject to the approval of the House. We had an example at this meeting, the Licensing and Fees Ordinance, and we had one at the last meeting. Secondly, to prescribe the fees for company searches and certificates in the Eighth Schedule rather than in the body of the Ordinance and, thirdly, to reduce the somewhat lengthy schedule by reducing the number of small items for which 50p is charged on minor matters, but increasing the fees for the major activities of the companies registry. The changes which are proposed follow UK pattern and practice. The changes proposed in the registry fees are the incorporation registration under Part 9 or a change in the status of a company, exempt from public limited to private, or from limited to unlimited, would carry a fee of £25 regardless of the amount of the share capital, instead of the present graded fee related to capital which combines with the small fee for the registration of documents, 50p, making a record 50, these are being abolished, require a company having a share capital of £2,000 to pay only £6.50. The fee for changing the status from public limited to private, or limited to unlimited, the proposed increase is to £3.00 instead of the 50p for a document filed. The fee for a change of name is increased from £2 to £20 and the proposal for the filing of an annual return is increased up to £10 and the search fee £1 instead of 5p, and the charge for certified copies of certificates £2 instead of 25p. The Honourable and Learned Chief Minister has drawn my attention to a misprint in the Schedule which I shall need to amend at the Committee Stage. It is (f) certified copy of a certificate £20. It should be £2. Photocopies to be charged at £1. These proposed changes in the order of costs in the Schedules have been discussed with the Finance Centre Group, and I believe by the Bar Association, it is my understanding that it has been put to them, and as a result of representations that they have made it is proposed, in the Committee Stage, to make a reduction in the proposed fee of £10 for the filing of the annual return. Sir, it is not possible at this stage to quantify the additional revenue that will be derived from the increase in fees but the House

will be later in this meeting asked to vote funds for the purchase of a micro computer in the Companies Registry of the Supreme Court to speed up the registration of company names and it is our view that, by and large, the additional revenue that will be derived from the increases in these fees will meet, over a period, the cost of the computer plus the running of it. Mr Speaker, Sir, I commend the Bill to the House.

MR SPEAKER:

Before I put the question does any Honourable Member wish to speak on the general principles and merits of the Bill?

HON P J ISOLA:

Mr Speaker, we would agree entirely that the fees payable under the Companies Ordinance are much too low. The principle of the Bill is agreed to. However, the reason why I was shaking my head when the Honourable Financial Secretary said that the Finance Group had been consulted and the Bar Association had been consulted is because I personally had a representation just before the commencement of this House by a leader member of the Bar, to the effect that somebody in the Bar I don't know if it was the leader or somebody else, had received a copy of the Bill only 3 days before and that, apparently, they wished to make representations on it. Equally, I understood the position was the same with the Finance Centre although I have not had direct information from anybody there. Whatever the case may be, Mr Speaker, I am opposed to the idea of going through all the stages of this Bill. I am opposed of going through Committee Stage of this Bill at this meeting and I will say why in a minute. A new word is introduced into this Bill, the question of change of status in any company, and it would seem that under the Eighth Schedule, incorporation, registration or submission of any change in status of a company, it is not clear to me what that means because a change of status from public to private, or of limited to unlimited, which are the particular changes of status that I can think of, are specifically provided for with payment of £3. When a company changes its directors, is that a change of status? When a director changes his name, is that a change of status? If that is the case, is he going to be required to pay £25 every time a document is filed to that effect? To me, it would seem quite ridiculous and absurd to accept that. I notice that from the old Eighth Schedule a clause has been left out entirely, Clause 2, which says, "For registering any document by the Ordinance required or authorised to be registered, or required to be delivered, sent or forwarded to the Registrar, other than certain things", so under that particular Clause if you change a director in a company or you change the address of a company, or whatever, you pay 50p. Is there to be no fees for

this or is the fee to be £20? If the fee is to be £20, I would thoroughly disagree, Mr Speaker. I am talking to a certain extent here, obviously, as a practitioner at the Bar so I am aware of how those things work but it would be quite absurd that every time a director is changed in a company that there should be payable a fee of £20, or if a director changes his residential address, £20. I think that this is something that should be considered. But as the Ordinance reads now, in the absence of a definition to what status means, I can see the Registrar of Companies having a problem. I should say, Mr Speaker, that there is another Bill before the House in relation to the capital of a company, stamp duties and I agree entirely with those provisions, I think that they are perfectly reasonable, and I think that the question of having a flat fee for the registration of a company, again, is sensible, and we go along with that. Looking at the items, the registration or a change of name, for example, which is a comparatively simple matter, I cannot understand why it should be £20. It would seem to me that a company has already being formed, they pay £25 for the registration charges, if they chose to change the name, for example, but putting Gibraltar in brackets, I don't quite see why that should require £20. I would not like to comment in detail on the Bill because I think there should be some discussion between the Bar Association or the Finance Group and the Attorney General about the actual wording of the Bill. For example at (f) certified copy of a certificate.

HON CHIEF MINISTER:

No, that fee is £2.00.

HON P J ISOLA:

I know it is £2.00 but certified copy of what certificate, Certificate of Incorporation or a certificate of something else? If it is any certificate why say certified copy of any other document? I am not quite clear, as to the meanings. The main objection I have is as to the definition of status, as to what is meant by that, I think that requires a definition. If the Ordinance is scheduled to come into operation on the 1st November, I don't think there is any harm if it comes a month later and I would suggest for those reasons, Mr Speaker, although we thoroughly agree (a) with the principle of increasing the fees; (b) we agree with the rationalisation, I think that is a very good thing too, from the point of view of the work of the Registry, we agree with that. Again, we prefer some consultation and some detailed examination to be made before the Committee Stage is taken. We support the Bill Mr Speaker, but we suggest that the Committee Stage be left to the next meeting of the House.

HON CHIEF MINISTER:

Mr Speaker, the proposed implementation of the Bill would have been the 1st of November but I don't think there is any particular harm in leaving it until the 1st of January and having its terms disposed in the Committee Stage and Third Reading at the next meeting. I would like to draw the attention, particularly of the legal profession when things are published in draft, they have to come forward with their ideas. I agree there hasn't been enough time, and sometimes a week is not enough, but we cannot go round the various bodies asking them if what is done is right or not, they should make the representations. With regard to this Finance Centre Group, this was done. I had a meeting with them in connection with something else and I mentioned to them back in early September, I think it was, or late August, that we proposed to change the fees for a company and they asked that this be done with their consent. I regretted I couldn't do that because the responsibility was the Government's responsibility and that couldn't be delegated, but I undertook that notice should be given to them in advance of the proposed increases and in fact following on that undertaking the Attorney General wrote to Mr Louis Triay and sent him the proposals on the basis that he had been leading the delegation of the Finance Group when they came to see me. He wrote to him on the 24th of September so he has had time to consult with other people and in fact he wrote back to the Attorney General on the 8th of October. There is one point only on which we don't agree, in fact, he suggested the annual return being reduced from £10 to £5 to which we are agreeable, in fact, I thought later when I looked at this carefully that that of course is quite easy, and we could agree with him. He made a mention about the fact that it was unclear about the proposed fee of £25 for submission of any change in status of a company on which no doubt the Attorney General will want to say something, and drew attention to one or two other points. The one point on which at least at this stage I don't agree, and I am also entitled to have a view in these matters, is that a change of name is too much when in fact it can have a great effect on the company. If somebody wants to change the name, the change of a private name by deed poll costs much more than that but, anyhow, that we can discuss later on. The other point, of course, is that you do not see in the Bill the amount of small items that have been cleared and have made it neater to do this. We accept the criteria that we must not price ourselves out of the market by putting in too many fees that would increase the overall costs of forming a company but having regard to the cost of the registry forms and the service we will expect arising out of having computers and getting quick results with names which I think is very essential, and that is the crux of the whole thing. We hope that with the computer it will be done properly, it is no use looking at all magazines of the world and finding out whether the word "Sun", for example, has been used elsewhere before the Registrar says yes, or what have you, and that

would help a lot. Apart from those proposed amendments which will be brought at the time and anything on which the Bar wants to express their views, we will consider them, we cannot say we are going to accept them but we will consider them and I take that part of the responsibility as a Member of the Bar as well with the others that if representations have to be effective they must be made by the Bar, like the Finance Centre Group people have done it in a recent letter and in time, not just like that.

HON ATTORNEY-GENERAL:

Mr Speaker, if I can cover some of the technical points that have been raised. As the Chief Minister has said, of course, as far as the Finance Centre was concerned the draft was sent on the 24th of September. So far as the Leader of the Bar was concerned he in fact rang me, it was the beginning of this week, and he rang me for two reasons: He had had difficulty, it is true, in obtaining his copy of the Gazette which contained the particular Bill and so I said I would do what I could to make sure that it did not recur although I must say, that in this particular instance it was beyond my control. He also made comments on the Bill and he said: "Do you mind if I give you my oral comments in view of the shortness of time." Of course, I did not mind at all and I took note of them I think it is accurate to say that he supports the same points as were made by Mr Louis Triay on behalf of the Finance Centre. First of all, Mr Speaker, I agree that it would clarify matters if the term "a change of status" can be defined. Can I say what it is that it is intended to cover. It is intended to cover a change from public status to private status. I should say more precisely, a change between public status and private status, a change between limited status or unlimited status, or any combination of those changes except for the specific type of change referred to in paragraph 1B, and that is a change from public limited to private, or from limited to unlimited. But I take the point that it would be desirable in the interests of clarity to define in 1A what is meant by a change and I will be proposing in Committee a change to this effect. So far as the second clause is concerned I can confirm that the matters which are at present provided for under that item, which I think are all the subject of the 50p fee, and which deals with a number of routine matters such as change of registered office, notice of change of particulars of directors and secretaries, one or two others of that kind, they will now not be charged for and that is why it has been omitted. Certain other items of course which are set out in the Bill will be charged for at a higher rate, so as the Honourable the Financial and Development Secretary has said on the one hand some of the major fees are being increased, on the other hand a number of minor fees are being abolished. So far as Clause 1(3) is concerned, Mr Speaker, I would just like to say that there has been comment

on the size of the fee for a change of name. There are three points I would like to make. First of all, in consultation with the Registrar of Companies, he made the point that it is not quite as simple a task as it looks. There is a bit of work involved from his point of view, notably by way of checking and consultation. The other point is and again the Financial and Development Secretary has explained, the fee being proposed is considerably less than it is in England, I think in England the fee is now £40 so it is still a lot less than it is in the UK. I have only two other points to cover. Mr Speaker, I confirm that there is a misprint in paragraph 1(n) so far as the fee is concerned, that has already been explained. I can confirm to the Honourable and Learned Leader of the Opposition that the intention in paragraph 1(n) is to charge for any certificate. It is certainly something that we can look at more closely if we have got time between now and Committee Stage. I must say my first reaction is that it is clear enough, but I think that whenever somebody raises a point on clarification that is a point that affects us the wording should be looked at again, so I will look at that point. There was one other point arising from this paragraph and that is why the distinction between a certified copy of a certificate and a certified copy of any other document. Well, the reasoning here is this, Mr Speaker, that in the case of a certificate it is invariably, I think I can say correctly, it is invariably a one page formal document. In the case of other documents, one may be photocopying the whole of the memorandum of association and certifying it on the bottom so that is calculated on a rather different basis but the distinction was deliberately made.

MR SPEAKER:

If the Honourable the Financial Secretary would now like to reply.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, I think that the points made by the Opposition have been adequately covered.

Mr Speaker then put the question which was resolved in the affirmative and the Bill was read a second time.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I beg to give notice at the Committee Stage and Third Reading of the Bill be taken at a subsequent meeting of the House.

THE STAMP DUTIES (AMENDMENT) ORDINANCE, 1982

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Stamp Duties Ordinance (Chapter 147) be read a first time.

Mr Speaker then put the question which was resolved in the affirmative and the Bill was read a first time.

SECOND READING.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, Sir, I beg to move that the Bill be read a second time. The intention of the Bill is to amend the Stamp Duties Ordinance by the introduction of a minimum fee of £10 in respect of the stamp duty of $\frac{1}{2}\%$ which is payable on the nominal share capital of companies. Without a minimum charge the stamp duty is not effective as the majority of companies incorporated here are incorporated only with a notional share capital of £100, which means the fee is 50p. I think it is generally accepted that a minimum fee is preferable to an increase in the percentage of the rate of stamp duty itself. For that reason the Government proposes a £10 minimum fee. Mr Speaker, I beg to move.

MR SPEAKER:

Does any Honourable Member wish to speak on the general principles and merits of the Bill?

HON P J ISOLA:

Mr Speaker, we support the Bill, but the only amendment that I would suggest is that it should be £10 up to a capital of £100 and afterwards a $\frac{1}{2}\%$ extra because it seems to me that otherwise everybody will now incorporate companies with an authorised capital of £2,000.

MR SPEAKER:

And you only pay £10.

HON P J ISOLA:

And you pay £10, yes.

HON CHIEF MINISTER:

The payment is for the work involved in incorporating the company and then after £2,000 you start paying the extra but that is the minimum fee.

Mr Speaker then put the question which was resolved in the affirmative and the Bill was read a second time.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I beg to give notice that Committee Stage and Third Reading of the Bill be taken at a later stage in the meeting, if necessary, today.

This was agreed to.

THE LOANS EMPOWERING (1981-1986) ORDINANCE, 1982

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that a Bill for an Ordinance to provide for the raising of loans by the Government of Gibraltar for development purposes and for matters relating thereto, be read a first time.

Mr Speaker put the question which was resolved in the affirmative and the Bill was read a first time.

SECOND READING:

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, Sir, I beg to move that the Bill be read a second time. The purpose of the Bill is to enable the Government to borrow £10m in the period up to 31st March, 1984, to meet the cost of development projects. The House will remember the enactment in December, 1980, of the Loans Empowering 1980/83 Ordinance. Following the enactment of that Bill the Government negotiated loan facilities with the Midland and International Bank and Lloyds Bank and Members will recall that the agreement signed with the banks in accordance with requirements of the Ordinance were laid at the table of the House. £6m was borrowed from the Midland Group and £2.2m with a provision with Lloyds Bank International. In addition, promisory notes have been signed and issued for supply of finance to meet part of the cost of the International Direct Dialling and the Waterport Station project as well as the Varyl Begg roofing. It has now become necessary to obtain further borrowing powers not only to complete the 1978/81 Development Programme for which we will require £2.6m, but also to provide for the first tranche of the 1981/86 Development Programme an amount of £7.4m. The most important projects to be undertaken are the new Desalination Plant, the Rosia Dale phased housing project and the extension to the Bayside Comprehensive School. Contracts for these last two projects have been recently awarded. Sir, we have in this Bill followed the general principle of the previous Bill in that it is an empowering Bill enabling the Government to raise up

to £10m rather than having to seek approval from the House on each occasion that a loan is required for a specific project. This principle, if I remember correctly, had the support of the House when the previous Bill was enacted. We have made one slight change in the principles of this Bill and that is not only does it enable us to borrow on the money markets or by supply of credit, but also it enables us to borrow by debentures, probably tax free debentures issued locally, to mop up local savings. In the past, we have had separate Bills for local loans, I think the last one was No.6 of 1978 but we felt that it would be far better and gives the Government much greater flexibility in its borrowing to have all forms of borrowing wrapped up in the one Bill. The Bill provides, as did the former Bill, that the proceeds of the Loans raised must be placed into the Improvement and Development Fund, that Sinking Funds may be established as appropriate and that Loan Agreements must be tabled at the next meeting of the House after they have been negotiated. I know that one point that Members may well raise is why only £10m? I am sorry if I pre-empted the Honourable Members question. Well. It is a good question, if I may say so, and it is one which I asked myself. The reason is that the Treasury and the Economic Unit have tried to gaze into a crystal ball over the next 10 years to look at revenue and expenditure and how much we can afford to borrow and the whole of the projection is clouded by the effects of the likely closure of the Dockyard and what activity might replace that and so we felt that in order to keep within the prudential ratios of servicing charges to revenue which we use here in Gibraltar linked with similar prudential ratios used by the IMF on borrowing, that we could only go for £10m for the next 2 years at the moment but that thereafter when the scene became clearer we could go for further borrowing. The effect of this borrowing on present interest rates which we had projected fortunately when we did our look forward, is that if we assume that there will be some small drop in revenue and increase in expenditure because of the closure of the Dockyard, the ratio of servicing charges for the whole of the Government debt to revenue over the next 10 years will rise to about 14% to 15% from the present 8% by 1986/87 and then drop sharply thereafter. The rise is slow because we were able to negotiate with both Lloyds and Midland both very substantial grace periods on which we pay interest but not the capital on the loan, the capital on the loan is paid into fairly large tranches in 2 years and in the discussions which we have been holding with banks, in advance of this Bill coming into the House, in preparation for it, we have also been able to negotiate fairly substantial grace periods, happily. I don't want to go and I don't think that we should go above a figure of 15% of servicing charges to revenue. Normally, the rule of thumb is 10% - 12%. So long as it is going up and coming down, that is fine, but it is rather like your overdraft,

if it goes up and it comes down the Bank Manager doesn't mind, and we have discussed with the banks the figures and they find a peak and then a drop, that is OK, but if it is always going up your Bank Manager gets worried and I am sure that the people who are going to lend us money would get worried too. As it is, the indications are that we will have no great difficulty in raising the funds we require and furthermore, of course, we do intend to try and mop up local savings by issuing attractive tax-free debentures. The last 10½% £1m went extremely well and was all taken up, and I am sure that if we could come forward with a further attractive offer of that kind we should be able to mop up some money. Also, we have funds in the Note Security Fund, we could probably take £1m from the Note Security Fund so that we do not have to go for the whole of the amount to the commercial banks. Last time on our £14m borrowing, we borrowed £1.25m from the Social Security Fund. I think that given the points made by the Honourable Minister for Economic Development yesterday in discussion on the Social Security Fund, I think it would be inadvisable on this occasion to take any further funds for Government purposes from that Fund but we have got the Note Security Fund. Sir, I commend the Bill to the House.

MR SPEAKER:

Before I put the question to the House, does any Honourable Member wish to speak on the general principles or merits of the Bill?

HON J BOSSANO:

Mr Speaker, the Honourable Financial and Development Secretary seems to be developing remarkable mind-reading facility nowadays. I support the empowering of the Government to increase its ability to borrow. I think that in the past, in fact, our debt servicing ratio, out of total Government expenditure has been low compared to any other territory and I don't think we are approaching a danger area subject, of course, to the possibility of an economic collapse which would deprive Government of revenues and then, clearly, it isn't that it is projected to go beyond the 15%, but then of course, if there were to be a 50% collapse in Government revenue, then the 15% becomes 30%. My only reservation on this, and I think the Financial Secretary has cleared it up, I hope he has, is that in the past it has been hinted in recent budgets that there was a ceiling on the borrowing ability of the Government being put by the UK Treasury. Now, if it is a question of the Government itself determining what it considers to be prudent, then I am prepared to support the Government in its judgement because I think it is their function to do it. But if in fact they were to say to themselves; "We think it is prudent to

call it £12m, but the British Government only allows us to borrow £10m and, therefore, they are putting a ceiling on our ability to borrow £10m because that is all we are allowed to do, then I would not vote in favour, that I have to make absolutely clear. I support their judgement but not any limitations on their room to manoeuvre imposed externally.

HON P J ISOLA:

Mr Speaker, with regard to the last point that has been made by the Honourable Mr Bossano, one could possibly go along with him in a political basis, on a political footing that a Government must make a judgement and then take the consequences one way or the other if the judgment is wrong. I say that, but I think the reservation has to be there, and this is probably why I suppose they require authority from the British Government, the reservation has to be there that there is a Constitution under which we work and under that Constitution the economic stability is the responsibility of the British Government, but I suppose if the Gibraltar Government started borrowing very, very heavily that could affect that stability, I think the people of Gibraltar would accept that there should be a final body that decides. That is what the Constitution says and as long as that section is in the Constitution, we would not support action that is manifestly contrary to the Constitution. But we agree with the principle and we agree with having a Bill under which the Government gets authority to borrow £10m and gets on with it and I am glad this Bill has come now and I very much bear in mind what the Minister for Economic Development said earlier on in the meeting, answering questions about the reluctance of the Government to say what projects were going to go hopefully from Gibraltar funds and what were going to go from ODA funds because the British Government has not yet decided the measure of support it intends to give us, but on the other hand I agree the legislation has to be put through, loans have to be negotiated and development has to get going. If it doesn't get going, we will be suffering the consequences of lack of action in the next 2 or 3 years. I think our position as an opposition is completely protected by the fact that the project has to be approved by the House, anyway, and we will see the agreement that the Government makes on the loan laid on the House, it is their responsibility to make the agreement, obviously, and we will be able to criticise it. We support entirely the principles and we support the raising of £10m. Having said that, however, we have noticed how our repayment of national debt as it were, has been rising in the last 2 or 3 years and now they rise to a peak, obviously, and the only thing that we would say is, repeat what we have said in previous budgets that money is not limitless and that therefore the Government must control very, very carefully its annual expenditure because the repayment of these loans

will form part of that expenditure and we think that the Government must control expenditure, must be more cost effective than it is if development is going to get going in a big way because it is quite clear that the amount of aid that Gibraltar will get from the British Government will be that amount that the British Government considers reasonable. We will probably not consider it that reasonable and therefore we will have to raise funds if development of Gibraltar is to continue, if we are going to have new housing and so forth. So, Mr Speaker, we think, and it is a great tragedy, really, that Gibraltar is in the situation that it still doesn't know whether the Dockyard is going to close or not, still doesn't know what is the sort of support the British Government is going to give, a whole year almost has gone by since £4m was promised in December, great difficulty has been experienced in getting any part of it, we have only got £2m of it and I think that we are approaching the stage where we must just do something about it and get on with it. We approve the Bill and we say that final decision on the future of the economy of Gibraltar and on which way we are going have to be made during the current year, not financial year, calendar year.

HON CHIEF MINISTER:

Mr Speaker, in connection with the latter part of the Leader of the Opposition intervention with regard to public expenditure, the point is not only taken but is one which is uppermost in our minds, in fact, we have what we could call the "tacañones" in our department, we have the Minister for Economic Development who chairs the Expenditure Committee and tries to check and control and find out particularly proposed increases and so on. But at the same time Honourable Members opposite keep on asking for more things. Why don't we do more of this, why don't we do more of that. Because they all add up at the time of the budget to increasing general expenditure.

HON J BOSSANO:

I haven't asked them to be careful about public expenditure. I think you should address that to those who do.

HON CHIEF MINISTER:

I am saying that from what the Leader of the Opposition has said, what we have to make sure of is that we get value for money. That, yes. But having said that, there is a limit and therefore, suggesting that more things should be done here, the fountain to be restored there, something else should be done there, all adding up later on. Sorry if I mentioned the fountain, it is the only one I could remember, it has no particular significance. I want to deal with the question of the Constitution and the

question of the Loan Empowering Bill because I agree with the Leader of the Opposition that if we finally want to lay, and we may have to, hopefully not, but lay at the door of the British Government the fact that they have underwritten the economy of Gibraltar, whatever we do with regard to capital must be on the basis of agreement otherwise they would say: "I will underwrite what I have authorised and I won't underwrite anything else". The British Government will never accept responsibility without power. That is the basis on which we have to approach this matter. Power without responsibility is very comfortable but that cannot be done. Having said that and having accepted that they can have a say, as has been the case where difficulties were being placed in respect of this £10m which we in our judgement felt was more than covered and fully justified as has been justified by the Financial Secretary, I have made it clear to them that they cannot have it both ways, they cannot say they are not giving us development aid and they cannot stop us from reasonable increases in capital to do our own development. That has been my argument at a political level and fortunately, after a little grumbling and so on, they have given way. Not that happily but I think that that has been our argument apart from the fact that our finances at present stand reasonably handsomely and so on. But they cannot do both. They cannot deprive us of what is reasonable for us to develop and at the same time deprive us of developing with the aid to which they are politically committed and which is about time they should have done it.

MR. SPEAKER:

Does the Honourable the Financial and Development Secretary wish to reply?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I think I have nothing to add to what has been said, Mr Speaker. I would just add to the political point that the Chief Minister has made about borrowing in answer to Mr Bossano and that is that although, as the Chief Minister has indicated, we have had some difficulties in getting the borrowing powers we have sought, we have always put forward a very solid case for it, so solid that bankers will come and say: "Yes, we agree that this is a good case and we are prepared to lend you up to this amount." Our line at a lower level than the Chief Minister to the British Treasury is: "If bankers will come and lend us this money, who are you to say that we are not sound." And they have given way. That is all, Mr Speaker, I commend the Bill to the House.

Mr Speaker then put the question which was resolved in the affirmative and the Bill was read a second time.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I beg to give notice that the Committee Stage and Third Reading of the Bill be taken at a later stage in the meeting, if necessary, today.

This was agreed to.

The House recessed at 1.00 p.m.

The House resumed at 3.20 p.m.

MR SPEAKER:

May I remind the House that we are still on the First and Second Reading of the Bills.

THE PENSIONS (AMENDMENT) ORDINANCE, 1982

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Pensions Ordinance (Chapter 121) be read a first time.

Mr Speaker then put the question which was resolved in the affirmative and the Bill was read a first time.

SECOND READING:

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I beg to move that the Bill be read a second time. Section 10 of the Principal Ordinance makes provision, amongst other things for a reduction, that is an abatement from pensions, of an amount commensurate with the employer's share of contributions which the Government as employer may have made towards the Old Age Pension of the employee. This practice when it was introduced followed the United Kingdom practice and in effect what happened was that when you were awarded a pension at the end of your Government service, an amount was deducted from it when you reached the age of 65. If you retired at 60 when you reach the age of 65 and began to draw your Old Age Pension they deducted from your pension an amount equivalent to the amount which the Government, as an employer, had paid towards your old age pension. So on receipt of your Old Age Pension you had a cut in your actual earned Civil Service Pension and this same concept or principle was reflected in the Pensions Ordinance in all dependent territories. In 1980 the practice ended in the United Kingdom so that after the 1st April 1980, persons retiring after that date draw their full pension, not only at

the age of 60 when they retire, but also, eventually, when they receive their Old Age Pension, they receive the two together, there is no abatement. The reckoned amount for each year of insured service is about £2 a year, so that for a person who had earned his maximum pension on 33 1/3 year's service, the deduction that is made is about £67.75 pence and the proposal now before the House and contained in the Bill is that the abatement in respect of Government employees should be discontinued for service after the 1st April 1980, although service completed prior to that date will continue to be subject to abatement. The current position, as far as the Government is concerned is that an average of £25 a year is the Government's share of the Social Insurance Contribution paid towards the Old Age Pension and it is deducted from the pension of 202 pensioners out of a total of 703 pensioners. The total amount of the drawback is about £5,000 per annum at current rates. It is difficult to forecast what the effect of the discontinuation of the abatement with effect from the 1st April will be because you cannot tell at what age persons will retire but given that on past service the drawback is only £5,000, I think that one can fairly safely assume that it is not going to be very much more than, say, double that amount. I think that this Bill is aimed at restoring the position which in equity should never have been eroded. I think that it is generally accepted now in a rather more enlightened society that if you have paid towards an Old Age Pension, then that should be paid to you in addition to any other earned pension and that your pension should not be abated. Mr Speaker, Sir, I commend the Bill to the House.

HON G T RESTANO:

Mr Speaker, one thing that this Bill brings to mind immediately to me, anyway, is the difference of conditions that occur between employees in the public sector and employees in the private sector. This Bill has been brought before the House to better the lot of some public sector employees. But what happens in the private sector? In the past, where it was not generally the rule that pensions were catered for by private employees, individuals and persons employed in the private sector when they reached retirement age and had no pensions whatsoever from their employers or from any contributions that had been made by employers or by employees. This, I suppose, was just something which was of the times. Most of the employers in Gibraltar are small employers and perhaps the larger employers might have done it but certainly not the small employers and, as I say, the bulk of employers in Gibraltar are small employers. We got the case where little by little there was comprehension of the situation and perhaps even aid from the trade unions who also felt that perhaps employees in the private sector were slightly worse off in that respect than those in the public sector, and employers began to think of

making pension contributions or equivalents for their employees. In many cases those employees have been employed for so long that it was hardly worthwhile to go into a pension scheme because normally the advantages of a pension scheme is something which will span over a long period of time and therefore the benefits accrue after a long time, but in many cases when the awareness of the situation came to the employers, there wasn't really any time and so some employers thought of contributing towards their employees life insurances. What is the case where an employer pays contributions for his employees insurance policy? It is considered for income tax purposes as income for that employee and whereas in the case of the pension schemes whatever contribution is made by the Government for its own employees is not considered as an extra payment, it is included in the overall wage of the employee. Well, the Chief Minister may nod, but

HON CHIEF MINISTER:

No, if the Honourable Member will give way. Mr Bossano will hear out what I am saying. In respect of the parity analogues, where there is a clear difference because of contributions, in fact settlement of salary claims and so on do include an abatement in respect of that part of the pension that is given to them, or rather the salary that is given to them, that does not carry a pension contribution as it does in England. I can tell you of one particular case where the pension contribution is very high. I have particular experience of that because I have a daughter who teaches in the Inner London Education Authority. Teachers have got an abatement of about 6%, and here teachers get the salary of the United Kingdom less an abatement which is negotiated and therefore they pay for their pensions to some extent.

HON G T RESTANO:

I think where the Chief Minister has not understood me correctly is that I wasn't talking of pension schemes, I was talking of life insurance which some employers have decided to take out in view of the fact that some of the older employees have only a few years to go and there haven't been contributions over the past 20 years and so therefore they thought: "Well, let us contribute towards a pension, an insurance, a life insurance scheme which will cover them, say, till the age of 65." The contributions made by the employer are deemed under the Income Tax Ordinance as being added earnings by the employee so although on the one hand the employer does get tax relief, the employee does not get tax relief. What happens therefore is that there begins to be a difference, there begins to come a difference between the advantages that employees in the public sector get as against the advantages obtained by those in the private sector and there is a definite tilt, shall we say, in favour of employees in the public sector work.

HON J BOSSANO:

If the Honourable Member will give way. If the Honourable Member is talking about the provisions of the Income Tax Ordinance as opposed to the question of pension rights, don't think that what he is saying is necessarily accurate. As far as I can recall from the Income Tax Ordinance, it is a legitimate expense of a company to make provision into a fund for the welfare of the employees and if companies in Gibraltar are allowed, for example, to make contributions to BUPA and make that a tax deductible expense which is not charged as income to an employee, I don't see how what he says can be accurate. I would certainly say that it is a matter that should be taken up in specific cases directly with the Income Tax Department because in my estimation if that is happening it is a misinterpretation of the law. If the Income Tax Law is being applied in the sense that the contributions of an employer to a scheme which is effectively a provident fund for the benefit of an employee, if that contribution of the employer is being treated as taxable emoluments of the employee, as benefits in kind, then that is not what the law provides and if that is what is being done that is in my judgement, that is a mistake in the interpretation of the law. But I don't really think that that is an argument for saying that the pension treatment is different in the public than in the private sector. It seems to me that what the Honourable Member is raising is the question of the Income Tax Law being applied in a very peculiar way.

HON CHIEF MINISTER:

What happens, if I may say so, is that you have to clear a particular scheme with the Income Tax if you want to make up for not having done so before and it is a subject to certain standards, equitable standards, and the payments are allowed as being considered in respect of a pension fund, otherwise it is one way of avoiding payment of tax by getting part of your pay as a contribution towards something much bigger.

HON G T RESTANO:

Mr Speaker, I must say that as far as what Mr Bossano has said his memory is not all that good. I remember when both of us were in GDM he in fact agreed with me that this was the case, we discussed it and we brought it to the House and I can assure him that this does happen. I am saying that it is very well for the Government to bring up cases to better the lot of employees in the public sector but they should also consider those in the private sector. I can assure the Chief Minister that an employee in the private sector who has contributions made towards the Life Assurance Fund by his employer, those contributions are considered to be income and he is taxed on them whereas the contributions to Government

towards their employees, whether it is either for pensions or for gratuities, but that doesn't occur really, nothing is deducible, and quite rightly so, from the employees in the public sector and I say that if there are to be no deductions as I say, quite rightly so, from employees in the public sector, there should likewise be no deductions in income tax from employees in the private sector.

HON CHIEF MINISTER:

I think, Mr Speaker, with respect, we are mixing a matter which of course is of great interest but which really is not directly concerned with the Bill before the House. It is true that up to very recently very few people who had private employees have bothered about the future, perhaps the future was not so insecure as it is now. Where I think the contribution becomes taxable is if it isn't spread over a period of years that will make it equitable because otherwise you are making a veiled contribution of income which would be tax exempt. If I may say so, in respect of the big employers the business of course is that of the union to protect their members to ensure that they have proper pension schemes as in fact it has been done in many areas of employment, not only at the suggestion of the employers themselves, which have been done in many cases, but also as a result of pressure on the part of union representations. The odd small employer with three or four employees it is really left to his conscience. The precise point that the Honourable Member is taking can be looked at in another context and that is whether in fact any schemes that are made do take into account contributions made for old age pensions. If they are, then we should try and see whether we can protect those, that is what really he is aiming at.

HON G T RESTANO:

The examples that I gave Mr Speaker, was the employee who had been with a small business for a long period of time without any provisions for pension being made by the employer because it didn't happen in those days and then with, say, 10 years to go before the man's retirement, the employer saying: "I realise I should have done it before, or the firm should have done it in the past, so therefore I will contribute to something worthwhile." You don't start contributing towards somebody's pension 10 years before he retires, it wouldn't make sense, so you go into something else, you go into something else which will provide the man at the end of the day when he retires with something worthwhile, and a life insurance policy is one example and that, as I say, is taxed as though the contribution paid by the employer is part of his wage.

HON P J ISOLA:

Mr Speaker, I would like to say something, agreeing with what my Honourable Friend Mr Restano has said on the general principles. The Honourable Chief Minister has said that it is up to the unions to get in the private sector. I won't say that the unions have proved to be ineffective in the private sector, they have not, far from it but I don't think the unions are able in the private sector to act as effectively as for example, in the public sector because in the private sector there are a lot of other criteria that the union has to look at, size of the business, the ability of the business to pay and so forth and, therefore, it seems to me that we are constantly passing legislation or bills that makes the lot of the public sector that much better. We have had the Widows and Orphans Pensions, now we have got the Pensions (Amendment) Ordinance. All the time a sector that, really, looking at the average earnings is already something like 30% better off than the private sector in terms of earnings. I am not saying that the Government should go out and pay for the balance, no. What I am saying is that the Government should be very conscious of this fact, not talking in terms of the employers in the private sector but talking in terms of the employees of the private sector. I would have thought that there was a need to allow people in the private sector within defined limits, possibly, within certain constraints, to have these benefits or these deductions from their tax and I would ask the Government to look at that point, the point that my Honourable Friend Mr Restano has made, to look at it in depth because it is no use saying let the unions look after them. The unions do a lot but there is a limit to what they can do. They can't tell a small business you either do this or else because the small business either gets rid of its employees or it is the else. I know the unions are very busy keeping the public sector on its toes. I think there is a need for the Government, when looking at legislation, to look at the interests of the private sector in certain areas, of the employers as well, and on the employees, to have regard to the situation which they find themselves that legislation cannot necessarily help, they cannot force people to have the right conditions, to have pensions schemes and all the rest of it but what they can do is give allowances to individuals who want to have this sort of insurance scheme.

HON MAJOR R J PELIZA:

Mr Speaker, one can see the validity of the argument of my Honourable Friend on the left and I think he tried to make the case but I wonder whether it has been grasped by the Government, that is, that because of the circumstances of Gibraltar, at one stage no employer ever thought of making a contribution towards a pension of some form or another towards

the employee. Suddenly, because the situation has improved financially and there is more income coming into the firm, the whole attitude towards that has changed in Gibraltar. Employers who couldn't do that before have been able to do it now. As a result in many circumstances the contribution from the employer is far greater than if it had commenced right at the beginning, say, another 10 years earlier. Consequently, the amount of money that the employee is being taxed for is out of all proportion to what he would have been even if the principle that in this instance the private individual who is not a civil servant should be taxed and the civil servant should not be taxed. I think we have two issues which the Government should look very carefully at in fairness and justice to the people, generally, so that we don't create two kinds of citizens, the civil servant and the ordinary man in the street. In this respect I think, perhaps, it is appropriate that the Government should give careful thought to see how it could be overcome. It appears to me that there is a prima facie case for giving some solution to this problem. I think the fear of tax being avoided should be and could be overcome by setting a limit, for instance. If there are limits perhaps the Financial Secretary could say so and then we could all be at ease but whether that limit, in the light of the anomalous situation of the individuals who suddenly are now being considered towards a pension, I wonder whether that has been taken into consideration. Perhaps, ten years before, first of all because the income level was very low, it might have paid hardly any tax and also because the income tax level was so low but now the situation is very different. The income is much higher, the taxation amount is much higher and therefore I think that whilst the employer is trying to put right something that was wrong, the Government is not doing its best to do the same thing towards those employees.

HON CHIEF MINISTER:

If the Honourable Member will give way. What cannot be expected is that the employee should pay for the neglect of the employer in years back not having done anything for him and wanting to put half the burden of that on the employee whom he has not protected. That is the difficulty, that is where the limitations as we will look at the Income Tax Ordinance will show. That is why some schemes are allowed and some schemes are not allowed.

HON MAJOR R J PELIZA

Can I put forward another point, Mr Speaker. We have chosen a day from which this is going to be applied. On what basis have we chosen that date? Are we victimising people one way or another and perhaps the Financial Secretary can explain why because to me it seems a little bit unfair that after a certain date people should be all right, should get it, and before that date they should be left out.

HON W T SCOTT:

Mr Speaker, I would like to reiterate what has been said by the Honourable Leader of the Opposition. That is that as time has gone on, and I said it this morning on the Widows and Orphans, there seems to be an imbalance between employees of the public sector and employees of the private sector. I don't know why this should be so and perhaps the Honourable and Learned Chief Minister thinks that come election time he gets a lot of his votes from the Civil Service, it is not for me to say, but as time has gone on, we get legislation of this type which we all welcome but as far as we are concerned it is only half of what should be brought to this House. We had it this morning, we have it now again, and it seems to me, before it gets to a situation, because employees both weekly and monthly paid, according to the last employment survey, received considerably more than employees in the private sector and here we are now again suddenly forgetting the privately employed employees. I think before we start continuously and in time to come again improving the lot of the civil servants and Government employees, surely the Government should take a very long and serious look at the employees in the private sector and in asking the Government to do this perhaps members of my party on this side of the House could also do the same for the union representative in this House.

HON J BOSSANO:

Let me say that the Government in this piece of legislation is not giving a privilege to public employees that is not already enjoyed by private sector employees. There is not one single pension scheme in the private sector which abates the pension because of contribution to social insurance. In the piece of legislation we are actually looking at, Mr Speaker, what we are doing is giving something to people in the public sector which those few in the private sector who have got pensions already enjoy, that is what this Bill is doing, so let us be clear about that. It is not giving something to the public sector that doesn't exist in the private. It is true that very few people in the private sector have got pensions, that is true, and in fact the few that have got it are white collar workers. There are practically no industrials with pensions. It is also true that every employer in the private sector, to my knowledge, say they cannot afford to have pensions, that is also true. I can assure the House that the Union is committed to bringing the terms of employment of people in the private sector into line with the public sector and the resistance is because employers tell the union representatives in negotiations that they cannot meet such a claim and for the practical reason that the Leader of the Opposition has mentioned that no union is interested in actually busting an employer because that doesn't do anything for anybody, they limit what they settle for to the extent that they believe

that they are not being hoodwinked and that the picture painted by the employer is a genuine one and that the employer cannot afford to go beyond that. I think that is as far as what we are doing here, which I support completely. I opposed this a long way back, Mr Speaker, when in fact, there was an attempt not simply to recover the contributions but even to recover the actual pension increases. Several years ago, if my memory doesn't fail me, I am going back to 1974 or 1975, the position was that the employers were, and this was particularly reprehensible in the part of the Ministry of Defence and the DOE, because we had a situation where every time that the House legislated an increase in old age pension like we did earlier on in this meeting, the increase was compensated for by a reduction in the pension of the UK Departments so that in fact we are not giving the pension to the pensioner, we were giving the pension to the employers and the chap was getting the same money. This was corrected by limiting the claw-back to a fixed sum which was related to the contribution and not to the actual benefit, to the contribution that had been made going back to 1940, a fixed sum. As I understand it, what we are doing is eliminating that limited claw-back. That limited claw-back has only existed in the public sector, it has never existed in the private sector. There are, to my knowledge something like 10 or 12 pension schemes in operation in the private sector and none of them have got a claw-back because of the social insurance contribution. As regards the other point that has been raised on the question of the taxation of contributions, Mr Speaker, the Income Tax Ordinance says quite clearly: "Contributions by an employer to a provident or other fund for the benefit of its employees, such funds having been approved by the Commissioner, provided that a contribution which is not an ordinary annual contribution shall be allowed as an induction". So the Commissioner can either consider it to be part of one year or spread it but the point is that in fact the employer can deduct that contribution from his income in making his tax return from the profit of a business, so it is an expense to the business. If we are being told that the contribution by the employer to a provident fund is then treated as income in the hands of a beneficiary then, in my judgement, that is wrong, that is an incorrect interpretation of the law and that should be stopped.

HON G T RESTANO:

If the Honourable Member will give way. If I may refer to Question 219 of 1977, which dealt with these matters. I put the question in and I would just like to quote the Honourable Member's supplementary. He said: "I would ask the Financial and Development Secretary, in the light of his answer, whether in fact an employer contributing to an endowment life policy which does not pay a lump sum but pays a sum after achieving a certain age, would in fact qualify as contributing to a pension scheme and be exempt from tax in view of his answer?"

HON J BOSSANO:

As far as I am concerned, Mr Speaker, the law is perfectly clear. It is not a U tum apparently I am saying there what I say now. I am saying the same thing. As far as I am concerned, Mr Speaker, the position is, of course, that if the Government or the Income Tax authority are taxing people on money they don't receive, on money that is being received by an insurance company, then that is totally wrong. I don't see how somebody can be taxed on income. Even if they wanted to make it taxable I would have thought they would have to wait until the person receives the benefit before they can tax it. I don't see how they can tax people on income they do not receive. The Honourable Member says they can. Well, in that case, certainly, Mr Speaker, I cannot see how the Government then, makes no attempt to tax I think the point that was made was not in fact in respect of the contribution of the employee but of the contribution of the employer and therefore, by analogy, then the Government should be considering that the cost to the Government of the pension scheme, that is income in the hands of the employees even though the employees don't receive it.

HON CHIEF MINISTER:

If the Honourable Member will give way. I have had one or two experiences of this with the Income Tax Authority. It is with the approval of the Commissioner of Income Tax, and the Commissioner of Income Tax looks carefully at every scheme to see whether it is a bona fide scheme or a scheme in order to avoid the payment of tax, which is a different thing. Each scheme is looked at on its merit to see whether it is a proper one or one by which you will get a lump sum at the end and in the meantime you are exempt from payment of tax, that is, delayed salary rather than a contribution to a pension fund. That is the test that the Income Tax Commissioner applies.

HON J BOSSANO:

I myself have got no direct knowledge of cases involved in this, Mr Speaker, but I must say it does seem to me that it is a very odd way of applying income tax legislation if people can be taxed on income that they don't receive. How can it be income if they don't receive it? It would seem to me that even if it is delayed income then, surely, it should become taxable when it is actually paid across. Let us assume that it is a tax avoidance scheme rather than a genuine pension or gratuity, which certainly the ones that I know about and the ones that we have negotiated are not that. The ones that we have negotiated the employer is actually putting money aside so that when people terminate they have got a gratuity and a pension. In most cases it is

a gratuity only because of the difficulty of relating the benefit to the eventual final salary. The difficulty in pension schemes in the private sector, Mr Speaker, is what do you relate a pension to? If you are relating it to somebody being paid a fixed sum when they retire, a pension of £50 a week, that can be quantified and costed, but if you say the pension will be half of the final salary, there is no way of knowing what the final salary is going to be in 20 years time, and no insurance company will be prepared to guarantee those sort of benefits without extremely high premiums which are in the region of 20% odd of the actual wage bill which most employers say they cannot afford. If we had the situation where an employer was paying 20% into a scheme, most of them are in the 10% region and the ones that I am aware of the employer is paying something like 10% of its gross salary bill to pay the premium in what are in effect endowment policies which pay a lump sum or an annuity at the end of the working life. If that was then added at 10% of the gross salary and the person was taxed on the 10%, he is better off getting the 10% in cash. There is absolutely no point, he is not receiving that 10% if he is going to pay 50% of it in tax and not be able to spend the other 50% until he is 70. He might as well take the 10% now. If that is happening I am surprised I have not had a queue of people coming to see me to complain about it, they must be very isolated cases. But I would say that the point that Mr Restano was making in that context then is that if that is the treatment to some groups then in terms of the Government's own contribution on its own employees, the employee can be said to be getting 20% more notional income than they are practical income because that is what it is costing the Government to finance the Government pension scheme and nobody would dream of saying to people in the private sector: "Your income tax is going to be on the basis that you earn 20% more than you actually earn because eventually you will get a pension. That would be totally unacceptable and I think that that point although I don't think it arises directly from the amendment that we are doing because the amendment in fact eliminates one of the few areas where the public sector is at a disadvantage, I certainly think that the point is a very valid one in relation to the income tax and I do not see how it can be all that easy for the Commissioner of Income Tax. If somebody is making a payment to a fund to pay somebody a pension in 20 years' time, it seems to me to be stretching the point a bit to say that this is just deferred income. The chap may not be alive in 20 years' time. If you are doing a couple of years before he retires, then it might be a bit suspect. If somebody is 63 and he is going to retire at 65 and the employer is saying: "I am going to put £5,000 a year into a pension fund for you for two years" then that is clearly deferring income for 24 months. As I understand it in the UK there are very generous concessions even for self-employed people to contribute to what they call a personal pension scheme where the chap can

put a lot of money in because even a self-employed person or a small businessman whose livelihood is dependent on the business, will reach a point when he hasn't got an income coming in from the business when he cannot run the business himself any more and the man is entitled to make future provision for his old age and he is entitled to benefit from that just like employees are so I wouldn't think that we should in that respect follow the UK legislation as regards the treatment of income which is relatively generous in that respect because it recognises that small businessmen and self-employed people should be allowed to defer part of their income to provide for a pension for themselves for their old age and I don't think that that is really a tax evasion scheme, I think that is giving up present consumption in order to provide for future security in old age. To me it seems a legitimate way you know to organise the distribution of one's income as between present income and future protection and that the law should not in fact be used to prevent people from doing this. I think that that point is something that Government should certainly look at outside this. I would like to bring another matter of principle on the question of pensions and that is that the House is still waiting, Mr Speaker, and I raised this in the last House of Assembly, for the amendment on the application of counting years of service in respect of part-time service in the Government. I cannot for the life of me see what is so complicated about this change that we still have made no progress and I can tell the House that at a Union level the Unions are unable to even start negotiations because the Government is still studying it and the Government is not yet in a position to give clearance for the actual negotiations. I don't know whether we require a change in the actual principal Ordinance to allow this to take place but I note that in the subsidiary legislation under the directions made by the Governor on the 31st December, 1970, we have got that part-time service of at least 18 years does count provided that it is continuous with full time service and as I understand it for the payment of gratuity but not for the payment of pension. That makes the situation even more ridiculous. We have got a situation today where in the public sector the UK departments brought their pension scheme into line with UK and they backdated it to 1972 which was when it was done in UK so as to allow all those with service in a part-time capacity of 18 hours or more to count those years pro-rata, so they don't count as full years, obviously, they count as half years because of the service. In the case of the Gibraltar Government the Pensions Ordinance which has been under study now for I think for something like 3 years, is full of anomalies but one clear anomaly is that we have got people with part-time service, they can count their part-time service for gratuity but they cannot count it for pension and they can count it for gratuity provided it is continuous with a full-time service. The area of people involved is not very large. We are not talking about hundreds of people in the civil service being in that situation but we have got one

specific area, Mr Speaker, where the biggest group are and this is in the area of the Medical Department, I would say that probably something like three quarters of those affected by being deprived of pension rights are part-time nurses because it is not uncommon in the hospital service for young girls to go in as full-time nurses and then to revert to part-time nurses when they get married and have a young family and then at a later stage when the children have grown up to go to full-time service. They have got continuous service in the department and yet there is a break in service because the period at the heart of part-time service doesn't count and when they retire they retire on a very reduced pension which does not reflect the total of the service that they have done. We have already got a number of people who have retired on that basis and who are in fact constantly ringing up to find out what progress has been made on this and I cannot for the life of me see what is the obstacle or the complication in putting right something that is a clear anomaly because the provisions are already there and which would be, in my judgement if it requires an amendment, an amendment of no greater magnitude than the one that we have passed on the Widows and Orphans Pensions, an amendment which would again affect very few people and would consequently cost very little money and, in fact, one which may not be necessary in terms of the principal Ordinance at all because if in 1970 it was possible to count part-time service for gratuity by directions given by the Governor, then I don't see why the same cannot be done in respect of the pension rights. I would really urge the Government, talking on the principle of the thing, since they are concerned to remove anomalies, to remove this one once and for all because it is a situation which is unsustainable and the trouble is that of course when you are talking about pension rights you are talking about people who are coming out of service and people who have been retired for many years and people who die, so it is no good coming to this House and making it retrospective. I really urge the Government to give this matter the urgency it merits and of course there is a commitment from this House. We passed a unanimous motion in this House accepting the validity of the argument and saying that it would be done a very long time ago, Mr Speaker.

HON ATTORNEY-GENERAL:

Mr Speaker, if I can just speak on the last point about the amendment of the pensions legislation to deal with part-time service. I agree it is not a complicated matter and I also agree that it can be done by subsidiary legislation, an amendment to the Ordinance is not necessary because what we are talking about is a definition of service that counts and if I can give a progress report on it, that is not the only item which needs to be dealt with in relation to the meaning of the terms service that counts, there is another matter which

is also to be dealt with and if I can express myself this way, it is really now a matter which lies in the hands of the draughtsman, namely, myself. My object has been to have that out as nearly as possible at the same time as this Bill is passed. I have not lost sight of it, I was going to aim at clearing it with Government and bringing it out approximately at the time when this Bill becomes law.

MR SPEAKER:

Perhaps the Financial Secretary would like to reply.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

First of all, Mr Speaker, perhaps I might explain my somewhat provocative intervention when the Honourable Mr Bossano was saying that no tax authority could tax a person on what they didn't get, and I said they can. I didn't particularly mean Gibraltar, anywhere. For example, if you are provided with a house free or at a subsidised rent by a company, you can be taxed on the difference between the subsidised rent and the rent that should be charged. If you are provided with a car by your company, that can be added to your tax, too, and also if you purchase shares in a scheme which pays no dividend but at the end of a period when you sell them you get the whole capital sum, Her Majesty's Inspector of Taxes in the UK is now saying that the capital sum which is accrued each year to the fund can be charged as income although you receive no income and there is a case going to the House of Lords on it. So, rather like Parliament, taxation authorities can do all sorts of things but I am sorry, I think the Honourable Member took it as meaning Gibraltar but it was in general. First of all, Sir, I should say that I fully appreciate the points made by speakers on the other side of the House and also by my own colleagues and, clearly, there are some areas that need to be looked at. I will remind the House of one which the Opposition didn't pick up. I think it was either at the last meeting or a meeting before last, we brought in a provision where Government employees who get a benefit percentage on their gratuity at the end of their service of two years receive a tax free gratuity and at that time members of the House said why should this be and why cannot it be done for the private sector. I did explain then that we would look at it and we are looking at it but there is a problem in my experience in finance and that is that however closely you draw your legislation in order to stop a scheme being twisted so that it is arranged that an employee receives a lower salary, a benefit, to avoid income tax, however carefully you draft, and I say this with great respect to you, Mr Speaker, and to the other learned gentlemen in this House, a clever lawyer will get round it and you will spend the next 3 years drafting to block the loopholes. I am advised by a competent authority, in other words, the Commissioner of Income Tax, that under Section 6(1)(b) of the

Ordinance, an employee is charged tax on benefits in kind. If an employer pays the premium on the life insurance of an employee such premium is deemed to be a benefit in kind. The employee has the free premium added to his remuneration as part of his emolument. However, under the provisions of Section 22, the employee is allowed a deduction of the premium subject to certain statutory restrictions and these are that it is not more than 1/6th of his assessable income and not more than 7% of the capital sum insured so that there is a relief provision in the Ordinance. A contribution made to an employer to an approved pension scheme is not deemed to be a benefit in kind in the hands of the employee and is allowed as a deduction in arriving at the taxable profit of the employer. In the absence of specific legislation for pension schemes which would normally receive approval by UK Inland Revenue Superannuation Office, here they receive the approval of the Commissioner of Income Tax. All that having been said, I think that we do need to look at our legislation in these areas to ensure that there is an evenhandedness between the public and the private sector. This, Sir, I will put in hand.

MR SPEAKER:

You did promise to give the explanation as to how you arrive at the precise date.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

The 1980 figure. That is when it was introduced in the UK but why they introduced it in 1980 in UK I am sorry I don't know. We are merely following the UK practice.

Mr Speaker then put the question which was resolved in the affirmative and the Bill was read a second time.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I beg to give notice that the Committee Stage and Third Reading of the Bill be taken at a later stage in the meeting, if necessary, today.

This was agreed to.

THE SUPPLEMENTARY APPROPRIATION (1982/83) (NO.2) ORDINANCE, 1982

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that a Bill for an Ordinance to appropriate further sums of money to the service of the year ending with the 31st day of March, 1983, be read a first time.

Mr Speaker then put the question which was resolved in the affirmative and the Bill was read a first time.

SECOND READING.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that the Bill be now read a second time. The Bill seeks to appropriate, in accordance with Section 65(3) of the Constitution, a further sum of £217,600 out of the Consolidated Fund. The purpose for which this sum is required is set out in the Consolidated Fund Schedule Supplementary Estimates (No.2) of 1982-83 tabled at the commencement of this meeting. The Bill also seeks to appropriate, in accordance with the Section 27 of the Finance (Control and Audit) Ordinance, the sum of £216,258 from the Improvement and Development Fund as set out in Schedule No.2 of 1982-83. Sir, I would like to draw attention to three items. First, the appropriation of funds to provide additional tourist promotional activity in the United Kingdom and Morocco. Second, the need to commission independent enquiries into the state of two locally registered finance institutions. I referred to this in the answer to a question yesterday. Third, following receipt of tenders, it has been necessary to revise the estimated cost of the motor vehicle examination centre. This project is required to improve road safety and will also contribute towards a better environment. A project application seeking ODA funds for this project was submitted last month and we are awaiting their reply. Mr Speaker, Sir, I see a certain amount of puzzlement on the faces of Members about the project application and perhaps I should explain why this was done. When I was in London recently and discussing aid projects with both the ODA and HM Treasury, I put it to them that there were certain projects which, because of urgency with the opening of the frontier, we had started and gone to tender stage and in fact some of them are completed and we had not had time to go to ODA for the money and in fact at one part of the time ODA had not agreed a tranche of aid, but that had there not been the urgency of the frontier, we might have wanted to do the work but we would have put them forward as projects for the development of the environment, tourist purposes, etc, in Gibraltar. They accepted that there was substance in the argument that certain projects which had been started and possibly finished or where we had gone out to tender, which would normally not qualify for aid because the project must be approved in advance, would be considered if we cared to make a case. Accordingly, and I think that the Honourable the Minister for Economic Development mentioned this yesterday, we have put forward a number of projects I think totalling somewhere in the region of £300,000 for development aid from ODA and I hope that they will be received and looked at early. I commend the Bill to the House, Sir.

MR SPEAKER:

Before I put the question does any Honourable member wish to speak on the general principles and merits of the Bill?

HON P J ISOLA:

Sir, I think the Honourable the Financial Secretary, I hope I am wrong is a little optimistic. Mr Speaker, as far as we are concerned we are interested to have heard what the Financial and Development Secretary has said but we rather talk on the general heads at the Committee Stage.

Mr Speaker then put the question which was resolved in the affirmative and the Bill was read a second time.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I beg to give notice that the Committee Stage and Third Reading of the Bill be taken at a later stage in the meeting, possibly, today.

This was agreed.

COMMITTEE STAGE

HON ATTORNEY-GENERAL:

Sir, I have the honour to move that the House should resolve itself into committee to consider the following Bills, clause by clause.

- (1) The Control of Employment (Amendment) Bill, 1982.
- (2) The Landlord and Tenant (Miscellaneous Provisions) (Amendment) Bill, 1982.
- (3) The Specified Offices (Salaries and Allowances) (Amendment) Bill, 1982.
- (4) The Landlord and Tenant (Temporary Requirements as to Notice) (Amendment) (No.2) Bill, 1982.
- (5) The Elderly Persons (Non-Contributory) Pensions (Amendment) Bill, 1982.
- (6) The Prison (Amendment) Bill, 1982.
- (7) The Widows and Orphans Pensions (Amendment) Bill, 1982.
- (8) The Stamp Duties (Amendment) Bill, 1982.
- (9) The Loans Empowering (1981-86) Bill, 1982.
- (10) The Pensions (Amendment) Bill, 1982.
- (11) The Supplementary Appropriation (1982-83) (No.2) Bill, 1982.

This was agreed to and the House resolved itself into Committee.

MR SPEAKER:

Perhaps at this stage the Honourable the Attorney-General may wish to give an explanation because there was another Bill on the Order Paper which has not been dealt with, The Public Service Commission (Amendment) Bill, 1982.

HON ATTORNEY-GENERAL:

I apologise for not mentioning this earlier. With the leave of the House we are not ready to proceed on this Bill at the moment.

THE CONTROL OF EMPLOYMENT (AMENDMENT) BILL, 1982.

Clauses 1 to 3 were agreed to and stood part of the Bill.

Clause 4

HON W T SCOTT:

Mr Chairman, may I ask why this enormous increase both on sub-clause (a) and (b) from £25 to £500? Is there a valid reason for it or is there perhaps a sinister reason, what is the root cause of the problem? What appears to be the root cause of the problem to Government?

HON ATTORNEY GENERAL:

I assure the House there is no sinister reason. It was felt that the penalties were too low and were proving ineffective and this is an increase to a level which was thought would provide a deterrent effect. In practice, of course, I realise it is in practice and not in law, but nevertheless, it is a very real practice, it is most unusual for a Court to impose a penalty approaching the full amount but of course the purpose of increase is in the hope that the courts will impose penalties which are substantially higher than they are at present.

HON P J ISOLA:

Mr Chairman, I appreciate that this idea is the hope that the Courts will put a higher penalty but this has been rather the day of high increases, Mr Speaker, in possibly small matters. There has been enormous percentage increases put before the House in a number of Bills to which we have agreed but £500 is an enormous increase. I appreciate that the Bill has brought in a provision to enable an employer to appeal, but what area of control of employment is the Government worried

about? Is it in the retail distributive trade or is it in the building industry or where is it that the problem lies to bring about these very severe penalties of £500? We do think they are much too high.

HON J BOSSANO:

If the Honourable Member will give way. The Honourable Member seems to forget that there was a motion that I brought to the House which had the support of everybody which asked the Government precisely to do this, to introduce very stiff penalties to act as a deterrent to those few employers, obviously in the private sector because in the public this does not happen, who are employing illegally people without work permits, that is what this is for and in fact if the House will recall in the first reading of the Bill, I raised the point that whilst I fully supported the penalty of £500 to prevent people from using illegal labour because in fact they are undermining the whole of our structure, they don't pay insurance, they don't pay tax, they are undermining the competitive position of good employers who comply with the law, there were many other technical matters in the Ordinance where the law might say: "You have to hand the work permit in within a week." Employers take a month and it would be nonsense to take somebody to court because they have taken more than a week to hand in the work permit. I was told by the Attorney-General that the fact that the figure there was £500 didn't mean that the courts would have to impose £500. Obviously for any minor technical infringements to the law it is extremely unlikely. In fact, I think at the first reading I made the point that I thought it would be desirable to separate the two things, to put the heavy penalty for what we really want to control, which is to stamp out illegal use of labour and perhaps to keep smaller penalties for other things but if there is no danger of it happening then as far as I am concerned I am prepared to support it.

HON ATTORNEY-GENERAL:

Mr Chairman, I would like to be quite clear on the point. If the law says that the maximum penalty may be £500 then of course the maximum penalty in theory may be £500 but I do feel quite confident in saying myself two things. First of all, that even though £500 is a large increase, I think it is still on today's economics a penalty at a level albeit heavy which is really a summary type of penalty. The structure of this Ordinance is quite simple as far as penalties are concerned. There are only two sections which deal with penalties. We haven't brought forward amendments to distinguish different grades of offences. I do stress that theoretically the penalty could be £500 for any offence but I am quite happy that in practice the Court will do three things. It will not in the

first place, impose a penalty approaching £500 except perhaps in a very flagrant case of fault on the part of the employer and I think that in the technical offences or the lesser offences, it will impose a fairly nominal penalty.

HON A J HAYNES:

Mr Chairman, on this point of the extent of fines which can be imposed, I take the point of the Honourable Member on my left who expressed a sense of anger against those who employ people without work permits because they are not contributing to the society in terms of social insurance and taxes, etc. Whereas we cannot condone such a practice as such, we do nevertheless welcome that other part of the Bill which gives a worker the right of appeal to a decision to revoke a permit. I am not sure, Mr Chairman, whether that definition to revoke a permit means that you can appeal in the event that it is taken away from you or whether it means you can appeal if it is not granted to you in the first instance. It is all very well having heavy fines to prevent the wicked employer from exploiting labour but at the same time it must be possible not only for the employer to ensure that he is given a proper work force from which to select an employee but also for the employee to be given a fair opportunity to belong to that legal work force.

HON J BOSSANO:

If the Honourable Member will give way. Mr Speaker, the point is that we are talking about people who are not already in Gibraltar. The people who are already in Gibraltar legally and they have been given work permits and if he ceases their employment in one place they register as unemployed and they are part of the existing quota. We are talking about the fact that we have got at the moment something like 3,000 legal workers in Gibraltar with work permits and an unspecified amount of non-EEC nationals because we have also got 300 million EEC nationals who can come in and out without a work permit, and an unspecified number of people who would require work permits under our present legislation. The system today is de facto controlled by the physical and geographical isolation of Gibraltar. It doesn't take much imagination to envisage a situation when Gibraltar is not geographically isolated where people can come in in the morning, work during the day without any permit, without any insurance, without being paid union rates, collect a cash sum at the end of the day and disappear overnight. Unless there is a serious deterrent to doing that the incentive to do it is very great and people will not bother to get a permit, why should they, and that is what this is about.

HON A J HAYNES:

I understand what the Honourable Member is saying but the Honourable Member doesn't seem to grasp what I am saying as regards the control of the quota. This quota has very definite and very serious threats to the right to work and we also are concerned that you cannot put a square peg in a round hole.

MR SPEAKER:

I fail to see where the quota control comes in within the Clause 4 that we are discussing.

HON A J HAYNES:

Well, insofar as the penalty would be imposed if the employer does not comply with the law. I was trying to make my point now as to what will happen to him if he does not comply. I would like to say also that the sum is too high unless certain things are taken into consideration. You cannot put a square peg into a round hole and if the quota list of those who may work

MR SPEAKER:

Could we possibly be told which is the round hole and which is the square peg so that we may know what you are talking about.

HON A J HAYNES:

We are going to have a quota in which the men who are sent to the employer are people who want to do the work and are suitable for the work. If the quota system is such that it has ingrowing problems then it is inevitable that the employer could try and get round it. If we don't agree with the way in which the quota system is being run we cannot therefore albeit we understand and accept the Honourable Member's point agree that the penalty should be £500. That £500 does not take into account the genuine problems that exist in terms of the service industries.

MR SPEAKER:

With respect, what you are saying is that there should not be a quota. What the Ordinance is dealing with is a penalty for a breach of the existing legislation. Let us for goodness sake, direct ourselves as to whether the penalty is commensurate with the gravity of the offence but not as to whether the offence has been created.

HON A J HAYNES:

I agree with the protection afforded by a quota system but we

are not sure whether that system is being run with the efficacy which entitles anyone who breaks it to a fine of £500. If we are not confident that that quota system is 100% foolproof, then there are circumstances in which the Ordinance could be broken and it has not been broken by a man who is simply trying to avoid his debts and obligations to the community which is the only instance that my friend has cited. I believe, therefore that that £500 fine should be reduced to take into account the effect of the problems within the quota system which we believe will increase as we attempt to diversify the economy. Diversification of the economy means people working in different jobs. This requires flexibility within the quota system. And if we are confident that that flexibility exists within the quota system, then we will go along with a heavy fine but if we are not, we cannot accept a heavy fine, and that is why we feel the £500 fine is too excessive.

HON J BOSSANO:

Mr Speaker, I don't know who "we" is because in fact the House have approved a motion and the member didn't make any of those points then when the matter was debated. The House approved a motion deploring, in fact, the use of illegal labour without the necessary permit, asking the Government to reinforce the machinery of the Labour Department in order to catch those people who break the law, and asking the Government to legislate in order to introduce tougher penalties.

HON A J HAYNES:

There is answer to that point. Whilst we said we do not approve of illegal labour, we have asked the Government to direct their minds to particularly this problem. There is the case that jumps to mind which may be of assistance to my Honourable Friend. We are concerned, for example, with the car parking problem.

MR SPEAKER:

We are not concerned with the car parking problem in this debate. With due respect to you, you will direct yourself to the matter before the House and nothing else.

HON A J HAYNES:

Sir, I shall always respect your rulings, but am I entitled at this stage to make an analogy to clear a point which I am trying to put across?

MR SPEAKER:

If you tell me what the point is that you want to clear then I will tell you whether you can make the analogy.

HON A J HAYNES:

The point I am trying to make is we can go along with certain legislation but at the same time deplore its lack of totality. We have in the past, for example, asked Government to do certain things. Now, if they come back and do half of those things.

MR SPEAKER:

With due respect to you, this legislation, I have no doubts in my mind, is putting into operation a motion which was unanimously agreed by the House.

HON A J HAYNES:

But not in its entirety, Mr Speaker.

MR SPEAKER:

Fair enough, but that is another matter.

HON A J HAYNES:

That is our reservation. Were this Bill to represent that motion, were, for instance Government to do what we said not only to the letter of the law but to the spirit of it, there would be no difficulty in accepting this heavy fine, Mr Chairman. But the position is that that is not the case. The flexibility that we require is not there so therefore though we stand by the motion as enunciated at an earlier date, we do not feel that this has captured the entire spirit of that motion.

HON CHIEF MINISTER:-

Mr Speaker, there are three things here. First of all, there is the motion which was brought by the Honourable Member on which we have acted. Secondly, at the time when he brought it the immediacy of the opening of the frontier was very close, we were near to that and we wanted to avoid not only what may be happening now in a small way but what could happen in a big way. Thirdly, the maximum is always a deterrent for the worse cases but as we all know and we have been complaining earlier in these proceedings, we did increase the fines in respect of litter and so on and it has no practical effect. In fact I did say in the course of that debate that I proposed

to ask the Legal Department who are the legal advisers of the Government, that when the next case came up to send somebody from the Legal Department to impress upon the Court the gravity with which we look at that offence. So would it be in cases like this. A breach of the law could mean in certain circumstances over a short period considerably more benefit to the employer than the £500 fine so there is an element of proportion in it. An unscrupulous employer in an open frontier situation could over a period of 4 or 5 weeks before the matter is detected, take 10 or 20 people, avoid paying income tax, PAYE, contributions and everything. What we have done is to carry out the spirit of the motion.

HON P J ISOLA:

Mr Speaker, I raised the question but unfortunately because of the enthusiasm among other Honourable Members to speak I wasn't able to carry on what I wanted to say. Let me say of course that people who are employed contrary to the provisions of the control of Employment Ordinance are guilty of an offence and we do not wish in any way to condone that, obviously. Of course we deplore the use of illegal labour but I think what my Honourable and Learned Friend was trying to say was that it is important at the same time as you hit hard the chap who is employed illegally, it is important to try and produce within your working population the flexibility, the adaptation to change in accordance with the changing times of Gibraltar, I think everybody would agree with that. For example, shop assistants, try and get young people before they leave school interested in it, try and get people proud in their work, training courses do that. But the point I am trying to make is that I think it is important in deciding penalties to have some consistent policy. For example, you have to equate penalties in our different legislation. There should not in my view, be a particularly punitive penalty in one Ordinance and in another one for an offence which possibly a great number of people might consider to be a far worse offence than the one we are talking about, have a maximum of £100. That is what I was concerned about mainly, that if for example under the Litter Ordinance the maximum penalty is £100 then one should have some proportion in this Ordinance. The Criminal Offences Ordinances have various offences that have a financial penalty and we shouldn't find that this particular Ordinance stands on its own with a huge maximum penalty which is not found in the rest of our legislation. That could be used against us as a matter of fact I would have thought and that is why I was asking the Honourable and Learned Attorney-General whether he did not think the fine of £500 was too high. I know what the Honourable and Learned Chief Minister says, that the Courts don't always give the maximum penalty, I know, and we might as well put £3,000 as a maximum penalty but if you do that in this Ordinance, Mr Speaker, then you have got to

make all your penalties consistent. One thing that Courts do do, I find from experience, is that they have their way of proceeding and their set of penalties. Most people know that if you are in for this you get so much, if you are in for that you usually get a sentence in practice. For there to be justice there must be consistency. In respect of this Bill I question whether £500 is not too high. I do not wish to mean by that that it is not a serious offence, I do not wish to mean by that that we endorse or condone the legal employment of labour. All I say is that policy in fines in our ordinances should be consistent right through and I think that £500 is too high. I think £300 is just as much a deterrent as £500 and I think it would look better in the general background of our legislation if we substituted £300 for £500 and I would like to ask the Honourable and Learned the Attorney-General, perhaps he could let us know, perhaps there are other Ordinances which do have this high penalty for offences and perhaps if we could have an idea of them then we could equate them with this particular law.

HON ATTORNEY-GENERAL:

I couldn't do that immediately but I can I think answer, in principle, the points raised by the Honourable and Learned the Leader of the Opposition. In the first place as I see it, really, if one is looking at penalties, you can distinguish three types of penalty. Those which provide for what the public would regard as a crime, and that is characteristically imprisonment or perhaps a very high fine. But I think everybody understand the difference between what is a crime and what is an offence, shall we say. The next main class I think is this class. I don't mean this particular item at the moment but the class of summary offences which most people wouldn't regard as criminal with the same overtones as they would a crime and which are dealt with summarily. There is a third class which I think is irrelevant here and that is the class of offence where you can have a very high penalty but it is really for economic reasons or technical reasons. I cannot think of any in Gibraltar but one I know of elsewhere is when they have introduced new fishery laws, to enforce the law they have imposed extremely high penalties in some countries and they provide that they can be recovered summarily. The reason for that is not because breaching the fishing law is necessarily a great crime but there is so much money involved that that is the only way to deal with it. This, in my view, is a case of a summary offence and I agree at once that it is at the top end of the summary offence scale but the fact of the matter I think is that the Government views this as a serious kind of summary offence at present. As to whether it should be £500 or £300, could I explain a little further, that at the moment during the course of our reprint the Commissioner, with our help is reviewing the overall scale

of monetary penalties because they can get out of date of course and if I may say so with great respect, I think the distinction between £300 and £500 today is rather a fine one. I think one is either talking about a nominal £20 offence within the context of the summary offences. £100 is another level of gravity. I think you could possibly have a level of gravity of around £200 and then I think you are up into £500. I see this, as I say, on the high side for a summary matter but nevertheless one which reflects Government policy towards the importance of this particular statute. Can I mention one other point by way of clarification and also I think to help emphasise why £500 may be necessary here. Certainly my Chambers can go to court in cases and present cases, I am sure that the Chief Minister has briefly overlooked this but there isn't any real scope for us to speak in court on sentence. But if the upper limit is £500 and bearing in mind the practice of the Court, I think it has to be at that level if a reasonably deterrent penalty is going to be imposed by the court. I would be surprised if any penalty is imposed which exceeds £200 in any case. If we have a £300 limit apart from the point I made before to the effect that I think the distinction between £300 and £500 is rather a fine one, we are likely to end up with penalties of £60 and I don't think that is what we are looking for.

HON P J ISOLA:

Well, Mr Speaker, obviously it will not be passed but I think I would like to move that the sum of £500 be reduced to £300. I won't say anything in favour but I do feel it is too high having regard to the other offences.

Mr Speaker put the question in the terms of the Honourable P J Isola's amendment and on a vote being taken the following Honourable Members voted in favour:-

The Hon A J Haynes
The Hon P J Isola
The Hon A T Loddo
The Hon Major R J Peliza
The Hon G T Restano
The Hon W T Scott

The following Honourable Members voted against:-

The Hon I Abecasis
The Hon J Bossano
The Hon M K Featherstone
The Hon Sir Joshua Hassan
The Hon J B Perez
The Hon Dr R G Valarino
The Hon H J Zammit
The Hon D Hull
The Hon R J Wallace

The following Honourable Member was absent from the Chamber:-

The Hon Major F J Dellipiani

The amendment was accordingly defeated and Clause 4 stood part of the Bill.

The long title was agreed to and stood part of the Bill.

THE LANDLORD AND TENANT (MISCELLANEOUS PROVISIONS) (AMENDMENT) BILL, 1982.

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

Clause 2

HON P J ISOLA:

Mr Speaker, with respect, I was told the Government was not going to proceed with Clause 2 of the Bill at the last meeting of the House. That is why I didn't address the House on the second reading with regard to Clause 2.

HON CHIEF MINISTER:

The Honourable Member was not agreeable but if there is some confusion perhaps we could leave it over and proceed with the rest and let me look at it. I thought we were dealing with the transitional provisions Ordinance.

MR SPEAKER:

This is the Landlord and Tenant (Miscellaneous Provisions) (Amendment) Ordinance and this is not the moratorium.

HON CHIEF MINISTER:

My understanding was that in order to get it through then for the increase that was intended and Honourable Members opposite did not want to give way and have it read at that time, I said that I would be prepared to withdraw that other part if it was agreed then. As they did not agree nothing happened and it has come back as it was.

MR SPEAKER:

Perhaps we will leave over this Bill because we are going to have a recess soon for tea and then we will take it at a later stage.

HON J BOSSANO:

As I recall the situation the Government put to the vote suspension of standing orders in order to take the Bill. I

supported the Government in order to take the Bill and then the Chief Minister decided not to take the Bill and my understanding is that it is being taken now. Let me say that I still support the Bill as I did three months ago.

MR SPEAKER:

Fair enough, we will tackle this Bill at Committee Stage when we have come back from the tea recess. Let us call the next Bill.

THE SPECIFIED OFFICES (SALARIES AND ALLOWANCES) (AMENDMENT) BILL, 1982

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

Clause 2

HON CHIEF MINISTER:

Sir, I have circulated an amendment which I explained in the second reading and that is that whereas we cannot cover in this Ordinance the 1982 review because it is subject of negotiation, in respect of the Governor who is not represented by any Union in respect of his salary, which has been agreed after consultation that it should go up from the 1st of July 1982, I beg to move that the reference in the Third Schedule to Governor £18,000 and allowances on the third column £3,000, be amended by stating Governor £18,000 second column, third column £3,000 in brackets (with effect from the 1st July, 1981) and below that, Governor £20,000 and third column allowances £3,600 (with effect from 1st July, 1982). I explained the reason why I thought it would only be proper that that should be passed now and not wait until the rest of the matter. I so move.

Mr Speaker then put the question which was resolved in the affirmative and Clause 2, as amended, was agreed to and stood part of the Bill.

HON G T RESTANO:

There was a question some time back about the status of the Principal Auditor, that the post might either be downgraded in comparison with other similar grades. May I take it from the salary now agreed that there has been no change in the status of the Principal Auditor either way and that none is intended.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, the salary shown here for the Principal Auditor is personal to holder. The actual grading of the post for

the future is yet to be decided but as the present incumbent had been selected for appointment to the post before the question of the grading of the post had arisen, he goes into the post at its present salary and personal to holder. That is my understanding

HON G T RESTANO:

That is, Mr Chairman, the present incumbent, not the one who has just left?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Yes, because he was selected beforehand.

HON G T RESTANO:

I welcome that.

HON A J HAYNES:

Mr Chairman, on the question of the Deputy Governor's allowance, is this allowance strictly for private entertainment and does it have any bearing with his expenses as and when he is the Acting Governor?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, it is for his entertainment as an official and it is not for when he is officer administering the Government, he then gets an acting allowance for that.

HON A J HAYNES:

Under what head would that be provided for?

HON ATTORNEY GENERAL:

It is a nice point, if I may say so. I am sure it is covered by the provisions in the Constitution dealing with acting appointments.

Clause 3 was agreed to and stood part of the Bill.

The long title was agreed to and stood part of the Bill.

THE LANDLORD AND TENANT (TEMPORARY REQUIREMENTS) AS TO NOTICE (AMENDMENT) (NO.2) BILL, 1982.

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

The long title was agreed to and stood part of the Bill.

THE ELDERLY PERSONS (NON-CONTRIBUTORY) PENSIONS (AMENDMENT) BILL, 1982.

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

Clause 2.

HON P J ISOLA:

Sir, I beg to move the amendment standing in my name and that is that Clause 2 of the Bill be amended by the addition of a new subclause (3) to read: "(3) Section 2 of the Income Tax Ordinance is amended by the addition of the following words at the end of the definition of "pensions" therein contained, "or the Elderly Persons (Non-Contributory) Pensions Ordinance." Mr Speaker, the effect of this amendment would be to exempt persons in receipt of Elderly Persons Pension under that particular Ordinance from paying tax on their pensions. We have had here today a number of Bills and we keep having Bills benefitting various sections of the community and this injustice that exists as between the different classes of state pensions in Gibraltar is perpetuated by the Government I feel strongly for no other reason than purely political reasons. This party has been asking for this, has made a political issue of it, and the Government is determined that that legislation should not pass and does not look at it in relation to whether it is fair or not. It merely looks at it as a political move or as a political issue. Mr Speaker, we said earlier on that there are people who get the social insurance pension, they get a substantial pension, true, they have contributed to that pension. A number of them have contributed very little and now they draw as a result a full pension tax free. The particular one that we passed an order on earlier in the day, not so many in number, true, but also receive their pension despite no contribution free of tax, and the Elderly Persons Pension which is the lowest of the lot have to pay tax. It is no use talking about the people going to collect them in Rolls Royces. True a number of people who collect the Elderly Persons Pension are people of means in their own rights but again, equally, I would argue, a number of the people who receive social insurance pension are also wealthy in their own rights. They get them free of tax, the people in receipt of Elderly Persons Pension do not. That is discrimination and is wrong in principle. What makes it worse, Mr Speaker, of course, is that as the amount of the pension goes up the benefit to the people receiving social insurance pensions and retirement pension is correspondingly greater in proportion or relative to the Elderly Persons Pension because the Elderly Persons Pension as the income goes up if they are not in the tax bracket they get into it and the social insurance pension saving is thereby that much greater. The injustice will continue every year as time goes on and I think it is time that the Government remedied this injustice that exists as between the various classes of

people receiving state pensions. We have brought this up, Mr Speaker, every year and at every budget but we are stonewalled every time by the Government majority. It is their decision, true, it is their majority that decides but I think they cannot run away from the fact that every time they vote against this amendment they are voting for injustice.

Mr Speaker proposed the question in the terms of the Honourable P J Isola's amendment.

HON MAJOR R J PELIZA:

Mr Speaker, this is a horse that we have flogged on many occasions in this House but I think I saw a gleam of hope today when the Financial and Development Secretary said that there were a number of anomalies, generally, on this question of pensions and that he thought it was time to look and see what was wrong and what was right. It looks to me by the usual dumbness of the Government, when they haven't got an argument they just keep quiet, particularly the Chief Minister, and this is in fact one of them. This is why we see long faces on the other side of the House, Mr Speaker, and this is why they have been mute. I do hope that whilst we don't expect, and the pensioners themselves have almost given up hope and don't expect that any justice will be done on this matter, I do hope that when the Honourable the Financial and Development Secretary goes through all the Ordinances concerned with pensions which I think need some kind of revision, that he will take into account the very consistent attitude that the Opposition has taken on this matter and which for some inexplicable reason the Government thinks it is purely political and nothing else. I think it is time they realise that this is not so, perhaps even less so as more and more pensioners cease to have a vote as obviously most of them are of an age that unless, as my Honourable Friend said earlier today, Mr Bossano, unless something is done quickly for those who are still alive there will be no opportunity of putting this wrong right. Therefore, Mr Speaker, whilst clearly we are going to carry on pressing for this, clearly this will be an issue at the next elections unless it is put right, it is still not fair on the individuals for which we are putting up a case that the Government should assume that this is purely a political gimmick on the part of the Opposition because it is not. I think it is time they realised that they should come out with reasonable objective arguments as to why they don't because so far they haven't. It is simply because the argument is so strong that they cannot put up a case.

HON W T SCOTT:

I do not intend to repeat what has already been said on so very many occasions by members on this side of the House

except that my understanding of the matter as far as the Government is concerned, how the Government reads the situation, it is not so much a question of principle or policy except one of sheer economic or financial thinking, the cost of making this pension tax free. I think we voted £557,000 this year and yet when the question has been posed to Government as to how much it is going to cost, my recollection of it is that Government are incapable of replying they do not know, they say: "We do not know and it will cost us too much to find out how much it is going to cost." We never really have had an answer to that.

HON CHIEF MINISTER:

If the Honourable Member will give way. We have given an order of cost on one or two occasions. I remember one particular occasion, as it is raised every year, I do not know which year this was, it was in the nature of £50,000.

HON W T SCOTT:

Thank you, I am very grateful for that and I remember that figure.

HON CHIEF MINISTER:

Then do not say that we have never given it.

HON P J ISOLA:

An estimate has been given but not a cost and it seems to me that if in fact it is £50,000 per annum and if that figure can be taken as a correct figure then, quite frankly, what is £50,000, Mr Speaker, for the benefit of all these people most of which in fact were debarred from contributing to their own pension because contributions in those days were not compulsory.

MR SPEAKER:

Does any Honourable Member wish to speak on the amendment? I will then call on the mover to reply.

HON P J ISOLA:

Mr Speaker, it is extraordinary. Not one Minister from the Government replies. Actually there is nothing they can say, really, they cannot answer the argument, this is the real truth. £50,000, less than the money they throw away constantly on independent consultants whose advice they never follow. Much less than the money they have lost to the people of Gibraltar in the handling of the power situation. But, of course, they say we cannot give way on this, it would be the

DPBG who would mark one up and this we cannot agree to. That is their only argument this is why they have kept quiet.

Mr Speaker then put the question and on a division being taken the following Honourable Members voted in favour:

The Hon J Bossano
The Hon A J Haynes
The Hon P J Isola
The Hon A T Loddo
The Hon Major R J Peliza
The Hon G T Restano
The Hon W T Scott

The following Hon Members voted against:

The Hon I Abecasis
The Hon A J Canepa
The Hon M K Featherstone
The Hon Sir Joshua Hassan
The Hon J B Perez
The Hon Dr R G Valarino
The Hon H J Zammitt
The Hon D Hull
The Hon R J Wallace

The following Honourable Member was absent from the Chamber:

The Hon Major F J Dellipiani

The amendment was accordingly defeated and Clause 2 stood part of the Bill.

The long title was agreed to and stood part of the Bill.

The House recessed at 5.10 p.m.

The House resumed at 5.50 p.m.

THE PRISON (AMENDMENT) BILL, 1982

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

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

THE WIDOWS AND ORPHANS PENSIONS (AMENDMENT) BILL, 1982

Clauses 1 to 3 were agreed to and stood part of the Bill.

Clause 4

HON ATTORNEY-GENERAL:

Mr Chairman, I beg to move the amendment of which I have given notice. To omit from subclause (1) the figures "1982" in both places where they appear and to substitute in each case the figures "1983". The Bill should have said 1983, the 1st of January, 1983, which is the date from which this Bill will come into operation.

Mr Speaker put the question in the terms of the Hon the Attorney-General's amendment which was resolved in the affirmative and Clause 4, as amended, was agreed to and stood part of the Bill.

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

THE STAMP DUTIES (AMENDMENT) BILL, 1982

Clauses 1 to 3 were agreed to and stood part of the Bill.

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

THE LOANS EMPOWERING (1981-1986) BILL, 1982

Clauses 1 to 19 were agreed to and stood part of the Bill.

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

THE PENSIONS (AMENDMENT) BILL, 1982

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

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

THE LANDLORD AND TENANT (MISCELLANEOUS PROVISIONS)

(AMENDMENT) BILL, 1982

MR SPEAKER:

May I ask the House whether they wish to proceed now with the Landlord and Tenant (Miscellaneous Provisions) Ordinance?

HON CHIEF MINISTER:

Mr Chairman, I think we ought to continue with the Landlord and Tenant Bill. I would just like to make the position quite clear.

MR SPEAKER:

The position is that we have already done Clause 1 earlier in the meeting and we are now on Clause 2.

HON CHIEF MINISTER:

I have just had the advantage of refreshing my memory of what happened at that time and that was, first of all, that in order to introduce the Bill we had to move for the suspension of Standing Orders. In doing so the Leader of the Opposition objected to the fact that he had not had enough time and that it was not fair that they should be asked to deal with these matters at such short notice. At that time there were two interventions having regard to the fact that we went through the second reading of the Bill. I was interested at that time in getting through the part of the Bill which provided for a 20% increase for pre-war dwellings which are controlled and the matter which the Leader of the Opposition had mainly raised was the other question of tenancies of Crown Lands. When he objected to the fact that they had not had time Mr Isola said and I quote: "We have had a number of Bills with a lot of amendments, the Hon Mr Bossano has been out all morning so he has been saved the long haul on the Banking Ordinance with a tremendous number of amendments which we have not had any opportunity to consider and we do not think that we are performing our duties as House of Assembly elected representatives of the people, being given almost no notice of a lot of things. As far as the Banking Bill is concerned we realise the urgency of it and we went along with it. With this Bill" - I am quoting from page 195 of the Hansard of the 9th of July - "we haven't even had time to consider its effects or what it is seeking to do and we are being asked to suspend Standing Orders in order to pass it. Most of the Bills before this House were received by us, Mr Speaker, three days before the House sat and most of them three working days before the House sat. The Banking Bill had more amendments than there were Clauses in the Bill. I appreciate the problem, I appreciate this, but the fact is that we only have two or three days and now we get a Bill today and we are asked to

proceed on it and suspend Standing Orders. As a matter of policy, Standing Orders ought to be suspended by unanimous agreement whenever possible. I know the majority rules but I hope the Government appreciates that they are dispensing with what is the agreed Standing Orders of the House in order to do something in respect of which Standing Orders require them to give all Members of the House seven days notice at least. We have not been given notice, this Bill was not even on the Agenda for the House. We are not prepared to be rubber stamps". Mr Speaker, I replied as follows: "I appreciate the point of view of the Leader of the Opposition and we have tried to better the performance of the circulation of Bills which, unfortunately, has not been very good in the past. This Bill except for one or two areas which have been introduced and which when the Leader of the Opposition has told me that he takes great exception I told him that we were not particularly interested in pursuing, the only interest that the Government has, let me put it this way, the only positive interest that the Government has at this stage in this Bill is to give an opportunity to private landlords to have an equal amount of increase in the rents that they collect in respect of controlled premises that the Government has imposed on those of their tenants. The rest of the provisions in the Bill which were put in regarding the question of tenancy under the Crown and so on is one which we will pursue separately. We are not going to steamroll that". That was my answer to that and on the basis of that we suspended Standing Orders. The Bill was moved a first time and on that one the Opposition, other than Mr Bossano, voted against it and Mr Bossano voted with the Government and we then proceeded with the second reading. The Attorney-General introduced it, Mr Canepa spoke and Mr Isola then spoke and then introduced another element into the matter which was the question of the reflection or the effect or the fact that it was in respect of that part of the Crown Lands that would upset the Select Committee and perhaps, even generally, on the question of the raising of rents. I said this was very modest and that is how it stood. In my reply I said: "With regard to the first part, the view of the Government is as is reflected here" - I am quoting from page 204 of the Hansard - "but there are two reasons why I have asked the Attorney-General to withdraw this after having spoken briefly to the Leader of the Opposition. One reason is because in respect of one case there is a judgement pending in the Supreme Court arising out of a decision in the Court of First Instance where this point has taken and then of course there is the question of the Select Committee. This is a matter on which with the greatest respect to the Select Committee we want to see their views, the Government may have their own views. I accept fully the point, as I said at the beginning, made by the Leader of the Opposition that there has been short time to look at it. That is why I thought to make it as uncontroversial as possible in the light of the fact that we have had to suspend Standing Orders to deal with this matter prior to the recess, that we are limiting the change to what is considered to be a fair deal to the landlord of pre-war dwellings which

the Government itself has done". On the Second Reading a vote was taken and it was passed with the six Members of the Opposition voting against. When it came to dealing with the Committee Stage, I must recall that the World Cup football championships were on at that time and there was great anxiety to the match. I do not recall who were playing that evening.

HON P J ISOLA:

Brazil versus Italy.

HON CHIEF MINISTER:

I do not know who won.

HON P J ISOLA:

The Opposition were deprived from seeing it although most of the Government Ministers went and saw it. That is the position. The Chief Minister had to stay because he had to listen to the GEC motion.

HON CHIEF MINISTER:

What happened was that there were two motions on the adjournment and one Minister had to stay. But in respect of the Landlord and Tenant Bill Members were not prepared to agree that the Committee Stage and Third Reading should be taken then hoping that that would adjourn the proceedings and they would be able to see Brazil and Italy.

HON P J ISOLA:

That is absolutely correct, Mr Speaker. I confirm that view.

HON CHIEF MINISTER:

I said that if that was the way you wanted it and you were not going to give way on this because you wanted to go then I said I would leave it until after the recess and therefore we did not proceed with the Committee Stage and then of course you, Mr Speaker, when I proposed the question for the adjournment you said that notice had been given of two motions on the adjournment and Members opposite had to remain here although no vote had to be taken, that was their misfortune. But insofar as the question of Crown Lands is concerned (a) I never gave up the idea, I only gave it up temporarily then because I wanted to get the increase of rents because I thought it was fair and I thought that that did not require much consideration. I dealt at some length, for the benefit of the Hon Mr Loddo who had taken exception as a member of the Rent Select Committee, and I said that the Committee were

servants of the House rather than the House servants of the Committee but in any case this was something that had to happen whatever was the case because it was only fair and the last time it had been missed and there the matter remained and that was that we did not proceed not even with the part which I was prepared to compromise on to deal with on the basis of the rent increase. Two points were taken then, short notice and interference with the Select Committee.

HON P J ISOLA:

And the first point in there which the Chief Minister conveniently did not refer to.

HON CHIEF MINISTER:

What do you mean by in there?

HON P J ISOLA:

In there, in the Ante-Room.

HON CHIEF MINISTER:

I spoke to the Hon Member and I said that I entirely agreed with his objections and I said: "If you let it go, we will carry on, if not, we will leave it until the recess". Anyway, one thing is certain and that is that since that meeting the decision of the Court has been taken which, as I understand today, it is even more necessary, if it was necessary to have those provisions of the law then, having regard to the decision of the Supreme Court, it is more necessary than ever to give protection to tenants of leases which are leases given to the Crown otherwise a considerable number of the people who think they are living in protected tenancies might find themselves completely unprotected. Because of the doubt that was what the Attorney-General intended to do and that is what we propose to do. Insofar as the Select Committee is concerned we do not think that it impinges in any way on the question of the increase of rents. On the question of the Crown Lands I think it is one of basic importance and we see no reason why, having had the whole summer, the Opposition should not be in a position to deal with this matter.

HON P J ISOLA:

Mr Speaker, we are dealing with Clause 2 of the Bill and I must refer you, Mr Speaker, to page 198 where the Hon Attorney-General moved the Second Reading of the Bill. He said: "I have the honour to move that the Bill be read a second time. Sir, the Bill in draft contains two proposals. As the Hon and Learned the Chief Minister has mentioned, the Government does not intend to proceed on the first proposal and I will accordingly be moving in Committee that that clause be deleted".

Because of that, I did not address the House on the Second Reading of the Bill on the events that had occurred and because of that I did not deal with that particular principle of the Bill and therefore, Mr Speaker, I will ask for your indulgence in dealing with that as a matter of principle because it was not discussed by me because I was misled by the Hon and Learned the Attorney-General, although possibly inadvertently, into believing that the Government would not proceed with that clause and he would move himself to have it deleted. Hence, Mr Speaker, my very great surprise when I found him moving Clause 2 of the Bill. Brazil and Italy, Mr Speaker, I think we want to put the record right.

HON A J CANEPA:

It was not Brazil and Italy.

HON P J ISOLA:

Ah, you saw it, it was Brazil and Argentina. I don't know who it was but it was a very good match which the Opposition were deprived of seeing by the pettiness of the Chief Minister. We carried on with our public duty of sitting in this House.....

MR SPEAKER:

I have been very indulgent but you must proceed with the question before the House.

HON P J ISOLA:

Mr Speaker, the Chief Minister has given an explanation and I hope you will allow me to answer, if you do not, I bow to your ruling.

MR SPEAKER:

I would ask you to refrain from further comment on the football match because it is not relevant.

HON P J ISOLA:

Well, the Chief Minister has made a statement on it, Mr Speaker, he has introduced the semi-finals of the World Cup.

MR SPEAKER:

Fair enough.

HON P J ISOLA:

He is the one who has introduced it and I am just trying to put the record straight because this goes down in Hansard and I think it is important that the record should be put straight. The Chief Minister asked that we go on with the Committee Stage of the Bill and we agreed to waive Standing Orders in order that the Committee Stage of the Landlord and Tenant Bill should be proceeded with. We then realised, it is true, that if we agreed to that the House would be sitting till rather later than we hoped it would and, therefore, we decided that we would not agree and I suggested to the Chief Minister that we come back the next morning and deal with the Landlord and Tenant Ordinance so that he could give the landlords their increase of rent about which he expressed much anxiety, come back the next morning, deal with the Landlord and Tenant Ordinance and then have the motions on the adjournment and we would be away from the House by midday. This was not agreed. And then I said: "If you don't agree then we don't agree to suspend Standing Orders as is our right". The Chief Minister then said: "I leave the landlords without their rent increases and I leave you without seeing Brazil or whatever it was". Those are the facts of the matter. The landlords were deprived of their increases because of what I regard as sheer pettiness on the part of the Hon and Learned the Chief Minister.

HON CHIEF MINISTER:

The other way about.

HON P J ISOLA:

We came back to the House and we moved the adjournment of the House on two motions that we had which were of great public importance but not considered so by a number of Government Ministers who disappeared to see the football match whereas the whole of the Opposition, Mr Speaker, stayed and performed their public duty because the House was sitting. The whole of the Opposition stayed and there was only need for my Hon and Gallant Friend and myself to stay because we were the only two raising points on the adjournment. And, of course, the Chief Minister had to stay because he had to reply and so did the Acting Minister for Tourism, he had to reply but all the other Government Ministers went off to see the football and I don't blame them, except the Hon Mr Featherstone, but all the others went, Mr Speaker. The result of the position was that we were deprived of seeing the semi-final of the World Cup and the landlords were deprived of their rent increases. That is what happened. That is one part of the story. Now we go to the second part of the story which is more serious, Mr Speaker. I objected to that section coming in and I objected in the Ante-Room to the Chief Minister and to the Hon Mr Perez on the grounds that there was a case pending and that it was very strange that this particular amendment should be brought to the House with such haste when the Hon Mr Perez and myself

were engaged in a lawsuit precisely on this issue and it seemed to me that this was a case of a Minister using his influence among the Ministers to push through a piece of legislation that might suit him.

HON CHIEF MINISTER:

Will you please give way, it is very important.

HON P J ISOLA:

Yes.

HON CHIEF MINISTER:

I did not know at all until we came to this House that my colleague, Mr Perez, was concerned in any case connected with that Bill so it is very unfair to say that we were taking advantage of anything like that and in fact it is very unfair because that was the first point on which I gave way immediately and I said I was only interested at that time in the increase of rent. That is a very unfair aspersion on the Hon Member and he has no right to make such aspersions against the Minister, he ought to know better.

HON P J ISOLA:

I would withdraw it instantly if it wasn't for the fact that my understanding of the way Government works is that Bills that are brought to the House are approved by Council of Ministers first and if the Chief Minister didn't know then, then it is worse still, the Hon Member should have informed him that he was involved in the case. I want to state the facts, I just want to state the facts as I understand them.

HON A J CANEPA:

Mr Speaker, if the Hon Member will give way. As I recall it, and I have a fairly good memory on these matters, the question dealt with in Clause 2 was one that came to Council of Ministers in principle well before the Bill was put into a draft, well before the Bill was drafted.

HON P J ISOLA:

Yes, between the date of judgement of the Court of First Instance and the hearing of the appeal.

HON A J CANEPA:

No. We can look at the minutes of Council of Ministers to check.

HON P J ISOLA:

The judgement of the Court of First Instance was in March, 1982, it may be of interest to the Minister but what I am getting at, Mr Speaker, is that Clause 2 as drafted, if the Hon Member will look at it, subclause (2) of the Bill as drafted, this was the only case before the Court, Clause 2 would enable the Court once the Bill had been passed whatever the result of the appeal, to upset the verdict. If the Hon and Learned Attorney-General did not know what was going on, anyway, he sent someone to the appeal to try and intervene. Anyway, I accept what the Chief Minister says, I accept that Council of Ministers were not told that there was a case pending. I accept it, if he says it I accept it, but it is a very odd way of proceeding. Mr Speaker, when I explained to the Minister for Medical Services, then, my view on the matter and how strong I felt in principle that this should be brought at that stage, and I agree that objection is not so strong today but at that stage, and I explained to him that there were big problems in relation to this which should be dealt with by the Select Committee and I will tell the House in a minute why, and I will tell the House if you pass this Bill in its present form the effect it is going to have on development in Gibraltar. When I told him that I said: "This is a matter that should be looked at in the whole ambit of the Select Committee's report on the Landlord and Tenant". You have to consider when you start touching Crown properties in whatever form, especially in Gibraltar where the Crown has such a large interest in land, you have to consider whether you ought not, for example, in respect of Government Housing Estates, to protect the tenants against the Crown from eviction and not just rely on what is said in the House. You have to consider the whole ambit of the Crown in Gibraltar. I know why this was introduced, this was to stop the Catalan Bay villagers landlords there, throwing out their tenants. That was the intention of this Bill. Yes, that is what happened. And I will tell the Hon and Learned the Attorney-General something. In this section, if the Government has given a lease, let me give you an example, an obvious one, Mediterranean Developments Limited, a 99-year lease, Mediterranean Developments Limited is sub-lessee. At one stroke of the pen all those houses could be rent restricted. And if the Government has given a lease somewhere else for a premium the same thing can happen. I will be told they are new developments. That may be the case. I am not going to go into the details of it because the Select Committee is dealing with it, but one thing I would like to ask the Hon and Learned Attorney-General, has he got evidence of any other case than the case in which the Hon Mr Perez and myself were involved in Court? Is there any other case before the Court? If that is the case what is the urgency for this Bill? What is the urgency for Clause 2? The person concerned is now out of the house, he is gone, he was hoping to get a new house and he has created, as I understand, pandemonium in the Housing Department because he was led to believe that he was going to get a new house. I do not know who led him to believe that, Mr Speaker. He rejected Government houses, old

houses, and he wanted a new house and I understand he has created pandemonium in the Housing Department because he was led to believe that he was going to get a new house and he did not. But I am not concerned with that, Mr Speaker, what I am concerned with is that this piece of legislation, as I see it today, this particular Clause is unnecessary. I am not saying that it will be necessary shortly but what I am saying is that the Select Committee which is meant to be looking at the whole context of landlord and tenant, is looking at how it should be restricted, it is looking at whether it should be restricted, should consider this not in the way that I understand it is being considered, they have just been told: "Look, this has happened, we are sorry we did not consult you, what about it?" but in the whole context of their recommendation. I would hope the Landlord and Tenant Select Committee would be looking at the question as to whether the Crown should not itself be bound as the Landlord and Tenant Ordinance having regard to the fact that they are the biggest single landlord in Gibraltar, and then come with this legislation. When the Attorney-General said he did not intend to proceed on the first proposal of the Bill, I took that bona fides to me that the Government would be leaving this until the Select Committee considered the whole question for the Landlord and Tenant legislation. Mr Speaker, as far as I am concerned, if the Government wants to pass this piece of legislation they are welcome to it, they have got the majority. I have not considered it at all since July, at all, because I believed what I was told in this House by the Chief Minister and the Hon and Learned the Attorney-General that they would not proceed at the Committee Stage and that is what Hansard says that is what I was told outside. And I will not go on with other things that I was told outside because I would not like to say a lot of other things that I was told outside because I do not think they are relevant. I thought that it would not be proceeded with and I think, and I utter a word of warning, that this is a matter that should be considered very carefully by the Select Committee and subsequently by this House when the whole legislation is looked at again. And at least, Mr Speaker, take away subclause (2) because if that was not intended to interfere with the course of justice I do not know what is. At least take it away in view of the fact that there are no orders, there are no judgements or anything so let us not blot our legislation or our statute book with this sort of clause that allows parties to go to the expense of an action in Court, allows them to rely on the judgement of the Court, allows them to go to the expense of an appeal in the Court, and goodness knows it is expensive, and then the legislature comes in and says: "You are alright, old boy, although you have lost you have really won". I would urge the Government to reconsider their attitude to Clause 2 at this stage without having before them the benefit of the report on the Select Committee and I think the Select Committee if they have not come so already are failing in their duty if they do not consider the issue of protecting tenants in housing against the Crown itself and the biggest single landlord in Gibraltar. I am not saying that they

should or they should not but it should be considered by the Select Committee when they are considering this particular clause and this particular clause should be considered very carefully because the Bill that came to the House, Mr Speaker, in July, 1981, which made it illegal for landlords to take premiums, which was obviously intended to stop premiums in unfurnished accommodation or pre-war accommodation, the effect of that section was in fact to disallow sales of flats of brand new development, that was the effect of the Bill as drafted. The effect was to prohibit the sale of new development, of new flats, because they paid a premium for a tenancy. And it did not come through, it has gone to a Select Committee. I do not know what the effect of this section is going to have. I know it is going to stop. Catalan Bay villagers chucking people out from their dwellings in Catalan Bay. That may be a good thing and I do not think they are going to do it. I think normally nobody is worried. When people go to Court it is very often out of sheer desperation and I am not concerned with that, I am concerned with the result of this thing that having been thought over, Mr Speaker, on people, and there is no need to pass this particular clause now because the reason for it, and I will not believe that the reason for it was not the case before the Court at that time because it fits in so beautifully, the reason for it, Mr Speaker, no longer exists. If the Attorney-General, that is why I asked, I do not know of any case of anybody trying to throw out people on the basis here and if it happened and proceedings are issued anywhere I do not mind having it then, but I do not think it is going to happen but I do mind we have to see through the results of this particular section and I think it is totally wrong unless there is an emergency which I do not believe there is, it is totally wrong to amend the Landlord and Tenant Ordinance in any substantial way until the House has before it a comprehensive Bill on Landlord and Tenant legislation and can take everything into account. Mr Speaker, I was forced to say what I said at the beginning because I do believe that the record should be straight on the events that have occurred and I want to state quite clearly that I was led to believe very, very clearly and without any doubt at all, both by the Chief Minister and by the Hon and Learned Attorney-General, that the Government would not proceed with this part of the Bill. So I had, Mr Speaker, as little notice of this section now as I had then because I just said: "Right, that is out, that goes to the Select Committee". That is the truth and I hope Hon Members of the House will believe me when I say that and if they look at Hansard they will see that the Attorney-General said: "I propose that that clause be deleted". So I have not been able, Mr Speaker, to think out the consequences of this particular clause, the consequences for the Crown, for people who may own houses, for people who may fit in under this particular section and I think this particular section is very important to the deliberations of the Committee. I do not know whether they are going to control furnished accommodation or whether they are going to suggest this or that. Supposing they do control new dwellings as was

proposed in the Bill that came before the House in July which was sent to the Select Committee, then the people who have committed themselves to the multi-storey car park if they had any flats there would be caught by this section because it was the Crown who is leasing. All the Crown leases that are given by the Ministry of Defence in Gibraltar through the Governor would be caught if there are any around, yes. You have to look at the new legislation. That is why, Mr Speaker, I believe that it is wrong to deal with this particular clause now when you are shutting the stable after the horse has bolted, let us put it that way, and I think that I would certainly like more notice to think out the consequences of this piece of legislation with the existing legislation that we have now. They may not be so bad with the existing legislation but with the new legislation that the Select Committee may consider they may be bad. So, Mr Speaker, I would like to hear whether the Government having heard that, is going to proceed.

HON ATTORNEY-GENERAL:

Mr Speaker, before the Government speaks further on this I would like to speak myself and deal with the points raised by the Hon and Learned Leader of the Opposition and at the outset can I say that if he was misled because I undoubtedly did say at the Second Reading that in Committee that clause would be removed, if he was misled then I do apologise and I hope he will accept that it was inadvertent because I think I have become a little confused in my own mind. I myself was under the impression that as a result of it not going through Committee at all, the whole Bill not going through Committee at the last meeting, that we then proposed to, as it were, re-open it and bring the whole thing back this time. Having said that, I did not intend to mislead the Hon and Learned Leader of the Opposition. Equally, however, I hope that he will be able, perhaps, to indicate on his part that he is not suggesting that this was contrived because of the personal aspect of a particular case which was being dealt with at the time. I am not asking him to give an indication now but I would like to explain to him my whole reasoning in relation to this amendment. I think everybody in the House would be surprised if anybody in the House prior to the raising of this point had not been under the impression that the purpose of the Landlord and Tenant (Miscellaneous Provisions) Ordinance is to grant protection to the private tenant and I would also be surprised if anybody was under the impression that there had always been intended to be a technical exception simply because a tenancy is derived ultimately from the Crown. In other words, the Crown grants a lease to a person who is popularly known as the landlord, he grants a sub-tenancy to one who would popularly be known as his tenant and I am sure that most people would have thought as of course that that second tenant, the sub-tenant, was protected and indeed I think they thought the same thing in England because in England they had to pass in the early

1950's an amendment to overcome this and that is precisely what we are doing here, not in any sense in a personal sense but certainly in a specific sense the case in question gave rise to this because that is how these points came to light. The case came up, we were made aware of it, we considered and we thought that there is a question of public interest here, we do not believe that this is the real intention of the Ordinance and that is why my Chambers did indeed seek to intervene unsuccessfully in the proceedings and that is why we sat down and drafted an amendment. Equally, at that time the Hon Leader of the Opposition is quite correct in supposing that had we been able to pass the legislation it would have been open to a party who felt that he needed to make further application to the Court to go back to the Court and say: "In the light of this, will you review your decision?" That was deliberate. It has also got a respectable pedigree because it is taken from the United Kingdom Act on which we based our amendment. If I can just make a point on it, it is not a mandatory direction from the Court to set aside one of its decisions, it is a discretion on the part of the Court to re-open the matter in view of the legislative intention expressed in a provision of this nature, that is as far as we went. But as I say we went there because there was a good pedigree for it. It is a difficult matter, I agree, and I think the question whether or not the true scope of the principal Ordinance was ever to exclude a sub-tenancy for those technical reasons is perhaps one which Members would like to deliberate but I would like to stress first that I think at the moment there is a major technical defect in the law. It may keep until March, it may not keep until March. If I was asked as Government lawyer to advise I would say it is an amendment which needs to be covered. Whether the House accepts that is of course up to the House but it is an important point. Can I clarify one other point? There is nothing, as I see it, in the amendment which extends the principle of rent control so far as the age of the dwelling house is concerned. It is not intended to say and I do not believe it does say that dwelling houses which are post-war may now be caught whereas of course under the main Ordinance they are not caught in the general principle but this does not touch that passage in rent control, all it is saying and all it is intended to say is that the mere fact that you happen to hold your sub-tenancy indirectly from the Crown will not operate as a technical bar to your right to rent protection and to security of tenure. That is the object of the exercise. As I say, Mr Speaker, if I can conclude by repeating myself slightly. I realise that Members may see this point as one which requires to be weighed carefully but it is my advice that there is a gap in the law and that that gap, as I say I am speaking from a technical point of view, that gap needs to be covered by the law.

HON J BOSSANO:

Mr Speaker, I was not aware that the World Cup was going on at the last meeting of the House so that was not a major consideration in my mind. Nor do I have a direct interest in either defending the landlord or the tenant in this case and I looked at the provisions as I said the last time not as a lawyer but as a layman and it seemed to me that the argument that had been put for suspending Standing Orders was valid, more so in the case of this clause than in the case of increasing the rents. I said at the time that it seemed to me that the understanding of any person of the protection under the law is that that protection cannot be eliminated because of subsidiary interest of the Crown in that property. For any normal person the landlord is the person that rents the property to him and the fact that the property initially might have been obtained on a long lease from the Government, if that is going to take people out of the Landlord and Tenant Ordinance then it makes a nonsense of the law. If this is a technical loophole it is a technical loophole that effectively counteracts the whole spirit of the original intention of giving protection to tenants, and if a technical loophole has come to light because of the interpretation of the Court in a recent case it is not a question of trying to hammer the people involved in the recent case, the fact that it is apparently the first time that somebody has tested the law and the law has been found to be unclear, I think the Government has got an obligation to make sure that they re-draft the law so that the original intention is explicit and it is not possible for somebody else to make use of this loophole and carry on doing the same thing. If as the Leader of the Opposition says, in the context of whatever the Select Committee eventually recommends, this has other implications, then presumably whatever the Select Committee recommends will mean a new Landlord and Tenant Ordinance when the whole thing would be looked at. I accept that it may be very necessary to provide protection for tenants against the Government as landlord. I do not know whether it is constitutional or not, I have always been led to believe that there was a constitutional impediment in prosecuting the Crown, the technical side of it I do not understand. But I understand one thing and that is that I supported the suspension of Standing Orders because I accepted that if it was a loophole it was a loophole that was never intended to be there and the sooner it was closed the better, that I objected very strongly to the thing being amended at the time and as I understood it, in fact, what the Chief Minister said at the time was that their urgency was in getting the 20% increase through at that House otherwise we would have had to wait until this House, and that in order to get the Opposition's support for that they were prepared to sacrifice this clause. As I was not prepared to do that I said that if they moved the amendment I would be opposing that amendment on the Government's part but I understood it that that was at the time something the Government was prepared to do in order to

get support for the second part. But, in fact, at the time there was no point in doing that because Mr Loddo said they would not be supporting the rent increases. It is not true to say that the landlords have been deprived of those rent increases for the last three months because of the pettiness of the Government.

HON A T LODDO:

If the Hon Member will give way. I did not say that I would not be supporting, what I did say was that if the Government was worried about the effect of not allowing the landlords to increase their rent because they already had increased Government rents, then perhaps it would be better if they did not increase Government rents. That is what I said, not that I would not be supporting the increase in rents.

HON J BOSSANO:

I will read very carefully what he had to say. Certainly, he gave me the impression that it was wrong to increase the private sector rents while the Landlord and Tenant Select Committee was looking at the whole question and that to use as justification the fact that the Government had done it, was not good enough. That in fact, perhaps, the right thing to do would be not to increase the Government one rather than increase the Government one and use that as the argument for the private. I certainly got the impression that the Hon Member would not be supporting the rent increases for the private sector. I am not sure whether they are this time or not but certainly when it was last discussed I think he said that it made a nonsense of the whole question of the Select Committee if in fact the Government was going to come along and increase rents. And to use as argument that they had done it for their own tenants did not hold water. Nobody wanted them to do it for their own tenants, in fact, as I recall at the Budget, Members did not support, surely, the Government rent increases so therefore if they did not support it for the Government tenants I do not see how they can support it for the private sector either. I voted in favour of the suspension of Standing Orders.

HON P J ISOLA:

On the Second Reading you voted in favour, according to the record.

HON J BOSSANO:

Yes, I said, Mr Speaker, that I was opposing, and I will quote what I said for the benefit of the Hon Member. I said: "I am opposing the rent increases and supporting the part that the Government doesn't want to proceed with". And since

I supported the suspension of Standing Orders for that part to be passed, I now find myself that the part that I want passed is the part that is not going to be passed and the part that I don't want is the one that is going to go ahead. That is what I said the last time.

HON P J ISOLA:

You voted with the Government at the Second Reading.

HON J BOSSANO:

Yes, and then I said that I would oppose the elimination of this clause in the Committee Stage.

MR SPEAKER:

I am beginning to regret the efficiency of producing Hansard so quickly because if we had not produced Hansard so quickly we would not be having this argument now.

HON J BOSSANO:

Anyway, Mr Speaker, I think that the fact that there had been no other cases since that last one is a good thing because I think that the law has always intended to give protection to tenants irrespective of whether there was a reciprocal interest or not. I certainly feel that the Government should close that loophole and let the Select Committee look at the whole thing in the fullness of time but I would certainly be opposed to their not proceeding with this now.

HON CHIEF MINISTER:

Mr Speaker, I am very sorry that there have been misunderstanding, it is quite clear in my mind and it is quite clear from what the Attorney-General said that he understood, he took the lead from me that we would not be proceeding with that because of what I had said before and because I wanted to make it as uncontroversial as possible in a matter on which there was a case pending. That has happened and so be it and I think in that case, subject to what the Attorney-General said, as there are no other pending matters I don't think there is any need to have the second clause. But now that the Attorney-General has spoken it has reminded me of the fact that this matter was initiated not as a matter of policy by the Government but by the Attorney-General's Chambers because when they were ordered, as I remember now, to increase the rents, they added this because they had themselves attempted to intervene and Hon Members opposite well know that in this matter the Attorney-General has got the full constitutional right to deal with any matter that

he considered proper in the Courts without reference to the Government so I am more convinced than ever that we have acted perfectly rightly and that any suggestion that we were trying to help anybody because he happened to be leading a case is completely repugnant and really should not have been mentioned but I am glad that it has been accepted that certainly it was not in my mind that we were doing anything for anybody in this respect and that is certainly not the way my Government acts nor the way my Government has acted in the last 20 or 30 years, I cannot say about others.

HON MAJOR R J PELIZA:

I wonder if the Chief Minister can explain what he means by that last remark since there has only been one other Government.

HON CHIEF MINISTER:

I can only say how I run the Government. If there are suggestions that I have done certain things I can say, no, these things do not happen. I don't know what other Governments have done. I am not making any aspersions whatsoever, I am stating a pure fact. I am not impressed by the attempt to dramatise the matter that the Leader of the Opposition has given to the dangers of the multi-storey car park. I hope, at least, the Rent Select Committee will report before that is done however long that takes. Really, I am not impressed by this question of how many people now are going to be found at the mercy of the Government or the Crown by this but it is true that the case obviously has revealed the loophole and the Government have got a duty to cover that loophole whilst it is open in order to protect people who think today that they are protected and might find themselves in the same position as the person, whoever he was, who was concerned in those proceedings and therefore the Government propose to proceed with the Bill but in any case it has in no way interfered or prejudged or limit the recommendations that the Select Committee may want to make in this or in any other matter, and that I said at the time and because there is a Select Committee sitting on any particular matter there is no reason or constitutional impediment to provide legislation particularly of a nature such as this which requires urgent dealing with. It would be monstrous if the Government was restrained from correcting any injustice that became apparent, be it the Rent Committee, be it the Divorce Committee, whatever it was, if there was something blatant that came up and had to be dealt with ad hoc. That in no way reflects on the members of the Select Committee or the good work that they are no doubt doing, it is just a matter of doing precisely what is considered to be the best. Therefore, Mr Speaker, I regret that what happened then was misunderstood but I am quite clear, as I said in my remarks, that the only positive interest that the Government has at this stage in this Bill

is to give an opportunity to private landlords to have an equal amount of increase, at this time and at this stage. That means then and, as the Hon Mr Bossano has said, I was trying to get consensus on the increase of rent and that is why I gave up the other one particularly because there was a case pending and there was no other reason at all whatsoever.

HON MAJOR R J FELIZA:

It is very sad, Mr Speaker, that the Chief Minister who has been here now for quite a number of years and who should in my view act in a responsible manner, that he should make such a statement about another administration which no doubt whatsoever is an aspersion. I hope it is not the way he meant it but that is what it sounded like and that having drawn his attention to this it is not withdrawn.

HON CHIEF MINISTER:

I have said that

HON MAJOR R J FELIZA:

Mr Speaker, I am not going to give way, I am sorry. I am going to have my say.

MR SPEAKER:

Order.

HON MAJOR R J FELIZA:

It is shameful, Mr Speaker, that that is the way the Chief Minister behaves in this House the moment that the Opposition, very justifiably, brings to the notice of the House a situation which in fact the public might think is being carried out because it so happens that it affects a Minister of the Government. It is absolutely justified, Mr Speaker, that the Leader of the Opposition under those circumstances should bring the matter to the notice of the House. In that case, Mr Speaker, there was every reason to bring this matter to the House. Perhaps it has been cleared and that I am sure is for the benefit of all concerned but the matter I want to speak of is the principle because the principle is a very important principle which affects the very roots of democracy and the rights of the individual and that is the separation of power, the Executive, the Legislature and the Courts which should all have their kind of independence so that democracy does not corrupt. This is the serious danger here where in a particular case in which two Members of the House are involved in which judgement is pending, our legislation is going to be changed retrospectively which means that in a way the Government is acting as the executive, as the legislature and

sitting in judgement. Those are the facts whether we like it or not. If we change the law it is obvious, Mr Speaker, that the Court will have to act accordingly otherwise there is no point at all in changing the legislation and then we are wasting our time and all my Hon Friend Mr Bossano said before is worthless. I can see the point of my Friend Mr Bossano, on a case where the matter is serious, where the House is unanimous on it, I think that is justified. But in a situation where there is absolutely no urgency, when there are no other cases which could be affected immediately and when, in fact, the whole question of the Landlord and Tenant Ordinance is being very thoroughly looked into by a Select Committee as I think perhaps has never been done before for many years, I think it is rushing matters rather unnecessarily and particularly when two Members of this House are involved in a case. Because of that, because not only has one got to be fair and show to the people the complete integrity of the Government, of the Opposition and of all the institutions of Government in Gibraltar, not just have we got to say that there is integrity in the way that we act but that we also appear to do so. I am afraid that in this instance it is difficult to say that we are appearing to be acting in the manner that this House should do. My Hon Friend has put all the arguments sufficiently clearly and I will not repeat them but I certainly cannot vote in favour and I think my Hon Friends will act the same way.

HON J B PEREZ:

Mr Chairman, I would like to say a few words for the record since it is quite clear that the Hon the Leader of the Opposition has thought fit to involve me in this particular issue and perhaps I should explain precisely what, in fact, occurred. I was involved in a particular case in which I was acting for a tenant and Mr Isola was acting for the landlord. During the case a very important matter of a point of law arose which in fact was brought to the attention of Her Majesty's Attorney-General. The Attorney-General thought fit that it was a matter of such fundamental importance and a matter which could have very serious repercussions on tenants, on people in Gibraltar, on the community as a whole, that he himself brought the matter before the House. At the time, the Hon Member will recall, that since the case was pending one of the reasons it was agreed to leave the matter pending until the next meeting of the House was precisely because there was this case pending. I feel very annoyed that the Leader of the Opposition should have made personal remarks against me. I take it that these have been withdrawn but let me remind Mr Isola that in the same way as he is making remarks about me I can similarly make remarks about him because if I was acting for the tenant, let me tell Mr Isola that he was acting for the landlord and therefore I could say, but I won't, that the reason that he was objecting to this particular clause and the reason he is objecting today is

precisely because he did not want to lose. But let me say that I do not mean that that is what he is doing but at least I have the courtesy of telling him - I will not give way - that in the same way as he makes remarks against Members let him know that Members can make remarks against him. That is all, Sir.

HON MAJOR R J PELIZA:

The argument that the Minister has used is precisely the reason why the clause should not have been introduced then and certainly not now.

HON P J ISOLA:

Mr Speaker, I am very surprised by the Hon Member opposite in what he says. I have not said a thing about this nor would I have said anything if it was not for the arguments that have led to it or the fact that the Government has breached its agreement to discontinue with this particular clause. It is not, as he says, that is why it was agreed to leave it to the next meeting of the House. It was going to be taken at that same meeting of the House and the Attorney-General gave notice to the House that it was going to be withdrawn at the Committee Stage. It says in Hansard quite clearly, and I quote: "As the Chief Minister has mentioned, the Government does not intend to proceed on the first proposal and I will accordingly be moving in Committee that that clause be deleted".

HON A J CANEPA:

The Hon Attorney-General said that at the meeting of 6th July.

HON P J ISOLA:

He said: "I will be moving in Committee". He does not say at this meeting or later on today but in Committee. I accept what the Hon and Learned the Attorney-General has said and I accept it fully, that it was done in good faith. I have been inadvertently misled as far as he is concerned. But as far as the remarks of the Hon Mr Perez are concerned, I said quite clearly I was acting in the other case and I would have made a full explanation at rather greater length than I have done now. But I do not like the counter-attack, Mr Speaker, I do not like the counter-attack because he is a Minister and this Bill must have come to Council of Ministers and he has not told us that. I ask him to say in this House whether it went to Council of Ministers and when it went there did he say that he was involved in the case because the Hon and Learned the Chief Minister apparently knew nothing about it and I accept what he says. I know, Mr Speaker, it is all water under the bridge but let not the Hon Mr Perez try and put me on the same level as himself in this particular

situation because I am not a Minister, he is. He has been connected with the process of bringing the Bill to the House. As I said, that is not what I am concerned about, I would have gone much more fully. It has been necessary for me to say so in these proceedings, it has been necessary for me to say so because the clause is here before us and I have had to explain why it was that I objected to it at that particular time because there were pending proceedings at that time and I even told the Hon the Chief Minister and the Hon Attorney-General and the Hon Mr Perez, for all we know the Supreme Court will uphold you so there would be no need for the legislation but it looks bad if it is brought in the middle of Court proceedings when there are no other cases. Mr Speaker, I recognise the force of the arguments of the Hon Mr Bossano, I do. What I am complaining about and what I agree with my Hon and Gallant Friend, Major Peliza, that we have to vote against this particular clause because we have not been able to consider it because as a result of what the Hon and Learned the Attorney-General said in the House, and the Hon and Learned the Chief Minister, this particular clause has gone out of minds. I see force in the argument of the Hon Mr Bossano that if there is a loophole through which people are driving it should be blocked up. But I am not so sure that people are driving through it and I am not so sure that many people can drive through it and as we have been promised the Select Committee report in the course of the next three months, I would have thought that it would be better for the Select Committee to deal with it in that sphere. As far as clause 2(2) is concerned, I think it would be wiser to leave it out, Sir. We have to vote against the whole clause.

HON A T LODDO:

Mr Chairman, I will be very, very brief. Let me say that when this piece of legislation was sprung on me at the last meeting I was upset because having been a member of the Select Committee I had no prior warning. Today I am learning that all the finer points had started in March. Last week we had a meeting of the Select Committee and again I did not know that this matter was going to be brought up. I was under the impression, quite honestly, that the thing having blown up at the last meeting, that the Government had decided to forget about that clause and today I find myself almost back at square one where I was in July. I did not honestly expect this, I thought this had been done away with and I think that any reasonable man would have interpreted what the Attorney-General said at the last meeting of the House that he would be deleting this at Committee Stage to mean precisely that, deleting it, not deleting it for that Committee but deleting it completely, altogether. Again I am surprised that it has come up and last week I still did not know it was coming up.

HON W T SCOTT:

Mr Speaker, a very short intervention. I think a lot has been said now on the recollection of certain Hon Members at that particular meeting about what the Hon Attorney-General said and again I will repeat what the Attorney-General said: "I will accordingly be moving in Committee that that clause be deleted". Later on, when the Second Reading was completed and we recessed for tea, when we came back after the recess the Hon Attorney-General proposed that the Committee Stage and Third Reading of the Bill should be taken at a later stage in the meeting and if necessary, on that day. In other words, it was the intention of Government to proceed with the Committee Stage and Third Reading of that Bill on that day with the deletion. Let there be no misunderstanding as to how we interpreted it.

HON CHIEF MINISTER:

Yes, certainly.

HON W T SCOTT:

But, equally, the intention would then have been to bring a separate Bill which would have embodied Clause 2 and that they would have done for this meeting.

HON CHIEF MINISTER:

The Hon Mr Scott has made a good contribution to clearing up the matter. Mr Bossano wanted the clause we are discussing now and I wanted the increase in rent. But it was on the understanding to make up for the time that the Leader of the Opposition had complained he had not had, that I was not proceeding what I considered to be, in his view, the controversial part of the Bill in order to get his support, not whether he voted in favour of the increase in rent or not but to proceed with the business despite the fact that he was to some extent justified in saying that they had had short time to do it. The intention would have been had there not been this difficulty about all Members consenting to the Bill being taken at that time, would have been to withdraw that, as the Attorney-General has said, withdraw that, carry on with that and then come back to the other one. I never said that I would give that up forever. It was a negotiating attitude that I took that I wanted the other one but I was prepared to postpone this one. That is why I said: "The only positive interest that the Government has at this stage of the Bill". The positive interest at this stage in this Bill meant that it had a positive interest at another stage in the Bill. I cannot for one moment give any real credit to the Leader of the Opposition when he said that he had no time to look at this. It is two clauses of ten lines.

MR SPEAKER:

The Hon the Leader of the Opposition said that since he felt the Bill was not going to be proceeded with, he had no reason to give it any thought.

HON CHIEF MINISTER:

I accept that but if he had not given consideration to it how is it that it has been possible for him almost to frighten us into throwing the Bill away by telling us of all the difficult repercussions that it is going to have even in the car park at Casemates? How if he did not know that, is he going to frighten us with that? Then he should have refrained from making any remarks about it because he was not prepared. But, no, he has done his homework, cleverly and very properly, but that does not go with the fact that he has not had time to look at it because he has had time to look at many repercussions that none of us had thought about.

HON P J ISOLA:

That is the trouble, I have had to think in minutes about it and you have not thought about it.

HON CHIEF MINISTER:

Yes, the great man who was not able to hold office during the Integration with Britain Party, he thinks he can think all these things in five minutes, all the things that other people cannot.

HON MAJOR R J PELIZA:

You are talking a lot of rubbish.

MR SPEAKER:

Order, order.

HON CHIEF MINISTER:

What I said I said in good faith, what he has said he has said in bad faith and I accuse him of that.

MR SPEAKER:

No, you must not do that.

HON CHIEF MINISTER:

Well, I say that he has been less than lacking in sincerity in saying the things that he has said. And there is one thing which he has said which is absolute nonsense as he is so used to saying in this House. Complete and utter nonsense. To talk about the division of powers about the thing because there are two people involved when the very first thing I did when the thing came in July was because there was a case I proposed to adjourn it. How can he reconcile one thing with the other? There was only one way of doing it and that is if all you talk is rubbish.

MR SPEAKER:

I will then put the clause to the vote.

HON P J ISOLA:

Could it be put in two sections, Mr Speaker?

MR SPEAKER:

In two sections, most certainly. We can take two votes, one on Clause 2(1) and another vote on 2(2).

HON CHIEF MINISTER:

Mr Speaker, we want to delete subclause 2(2) and I so move.

Mr Speaker put the question in the terms of the Hon the Chief Minister's amendment which was resolved in the affirmative and the amendment was accordingly passed.

MR SPEAKER:

We are now going to take a vote on Clause 2, as amended, which is what used to be subclause 1 before.

On a vote being taken on Clause 2, as amended, the following Hon Members voted in favour:

The Hon I Abecassis
The Hon J Bossano
The Hon A J Canepa
The Hon M K Featherstone
The Hon Sir Joshua Hassan
The Hon J B Perez
The Hon Dr R G Valarino
The Hon H J Zammit
The Hon D Hull
The Hon R J Wallace

The following Hon Members voted against:

The Hon A J Haynes
The Hon P J Isola
The Hon A T Loddo
The Hon Major R J Peliza
The Hon G T Restano
The Hon W T Scott

The following Hon Member was absent from the Chamber:

The Hon Major F J Dellipiani

Clause 2, as amended, stood part of the Bill.

Clause 3

HON ATTORNEY-GENERAL:

Mr Chairman, I beg to move that Clause 3 be amended, first, by omitting the expression "September" from subclause (1), and substituting the expression "December". Secondly, by omitting the expression "September" from subclause (2) and substituting the expression "December", and, thirdly, by omitting the expression "September" in subclause (4) and substituting the expression "December". Sir, the reason for this proposed amendment is that in view of the time that has passed it would be appropriate to put back the date from which a rent increase can take effect and in proposing the new date of 1st of December, 1982, we are maintaining the same distance of time between the anticipated passage of the Bill and the date on which the new rent can be imposed as we had when the Bill originally came before the House in July and it was proposed that the rent increase should take effect from the 1st September. Sir, I move accordingly.

Mr Speaker put the question and on a vote being taken the following Hon Members voted in favour:

The Hon I Abecassis
The Hon A J Canepa
The Hon M K Featherstone
The Hon Sir Joshua Hassan
The Hon A J Haynes
The Hon P J Isola
The Hon A T Loçóo
The Hon Major R J Peliza
The Hon J B Perez
The Hon G T Restano
The Hon W T Scott
The Hon Dr R G Valarino
The Hon H J Zammit
The Hon D Hull
The Hon R J Wallace

The following Hon Member voted against:

The Hon J Bossano

The following Hon Member was absent from the Chamber:

The Hon Major F J Dellipiani

The amendment was accordingly passed and Clause 3, as amended, stood part of the Bill.

Clause 4

HON ATTORNEY-GENERAL:

Sir, I beg to move that the word "that" in the second place where it appears be omitted and that the word "case" be substituted. This is a gremlin that seems to have crept up and it is purely a drafting matter.

Mr Speaker then put the question in the terms of the Hon the Attorney-General's amendment which was resolved in the affirmative and Clause 4, as amended, was agreed to and stood part of the Bill.

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

THE SUPPLEMENTARY APPROPRIATION (1982/83) (NO 2) BILL, 1982

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

Schedule

Schedule of Supplementary Estimates Consolidated Fund (No 2 of 1982/83)

Item 1, Head 3 - Education

HON A T LODDO:

Mr Chairman, I notice, under Books and Equipment, £6,300 to purchase 18 typewriters for the Commercial Business Studies at Westside. Why is this thing needed now?

HON M K FEATHERSTONE:

Sir, the majority of typewriters that were available were in rather poor condition and it was felt that since the Commercial and Business Studies was to get off on a good footing in its new place at John Mackintosh School, the typewriters should be provided as a new set. The others are also still being used at the Westside School.

HON A T LODDO:

But shouldn't these have been ordered, Mr Chairman, long ago so that they would be here now instead of having to order it now after the school has opened?

HON M K FEATHERSTONE:

I think these are being made through local purchase.

HON W T SCOTT:

I gather that in the new Westside Comprehensive, a substantial amount of the equipment for that school has, in fact, formed part of the ODA grant for the building of that school. If these 18 typewriters required replacing, why were they not included as part of the equipment supplied by the school through ODA grants?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

They would not have been supplied by ODA because we have overrun the cost of the project by over at least £½m so that we would have had to pay for them in any case. The ODA allocation to the school was about £4.5m and we had to meet 10% of the cost. Once we overran that £4.5m, as we did, the total balance of cost fell on us so they would not have paid for these.

Item 1, Head 3 - Education, was agreed to.

Item 2, Head 10 - Judicial, was agreed to.

Item 3, Head 13 - Law Office Officers

HON P J ISOLA:

Mr Speaker, I notice that the Hon Attorney-General is going to be involved in the forthcoming lengthy trial. What will happen to legislation, will he be able to do other matters?

HON ATTORNEY-GENERAL:

Naturally, Sir, I shall do both.

Item 3, Head 13 - Law Office Officers, was passed.

The Hon J Bossano voted against this item.

Item 4, Head 14 - Medical and Public Health, was agreed to.

Item 5, Head 21 - Recreation and Sport

HON A T LODDO:

Mr Chairman, Sir, could we have an explanation why the £5,200 in overtime. Overtime for what, just to maintain the present level of facilities?

HON H J ZAMMITT:

Mr Speaker, Sir, when the estimates were carried out, in an attempt to cut down running expenses, it was overlooked and in fact there are conditioned working hours at the Stadium, people working on shifts, and to maintain the same hours of work as they had in the past, we had to put that money back into the situation. But let me also say that it was envisaged at the time we carried out the estimates that there could well have been a reduction in overtime particularly at weekends, on sporting activities. That was the reason why we reduced the overtime factor but to maintain the level we discovered we could not do it if we wanted to offer the same facilities of up to 11 o'clock for the Hall and 10 o'clock for the outdoor facilities.

HON A T LODDO:

Mr Chairman, I would have thought the opposite would have held true as this year for the first time we had extra hours of sunlight. I would have thought more use would have been made rather than less.

HON H J ZAMMITT:

But football is not played in summer. The floodlights, which are the most expensive thing in the overtime factor is in the winter and sunlight has very little to do with it. The Hall carries on regardless and of course light comes on possibly in summer maybe half an hour later but it certainly requires lighting and overtime.

Item 5, Head 21 - Recreation and Sport, was agreed to.

Item 6, Head 22 - Secretariat

HON G T RESTANO:

Is the Chairman of the Steering Committee permanently in Gibraltar?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

No, Sir, he visits periodically. On the breakdown of the projected costs he is in Gibraltar from 17th to 21st August, between 4th to 10th September, 12th and 15th September, 19th and 26th September and projected for about 5 days in October. He travels to and fro.

HON G T RESTANO:

Am I to take it that there has been at least one meeting of the Committee during each of his stays?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

More than one. My understanding from the brief I have got is that there were meetings on the 9th, 13th, 21st, 27th and 30th of September.

HON G T RESTANO:

Can I know who is the Chairman?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

His name is Mr Edwards.

HON G T RESTANO:

Does he have any particular qualifications?

HON CHIEF MINISTER:

Suggested and recommended - and I shall go into more detail in the motion - by the Industrial Society.

HON P J ISOLA:

This is an ongoing thing, I suppose? Until when is he going to be here? When you say £23,000 additional, presumably, that is in the foreseeable future, or is it thought that this should be sufficient to cover?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

It is possible that we may require a supplementary. This is why I sent for the papers when I saw this. The amount now asked for is to cover the projected meetings but quite how long it will take to set up one does not know.

HON J BOSSANO:

Mr Chairman, I propose to vote against the £23,000 in respect of Departmental Enquiries but in favour of the Freedom of the City to Dr Giraldi expenditure and the reimbursement of the Chamber of Commerce expenses.

HON P J ISOLA:

Mr Chairman, as usual with a no of this significance, if I may say so, one would have thought that the Hon Member would let us into his secret as to why he does not want Mr Edwards in the Steering Committee.

HON J BOSSANO:

This has nothing to do with Mr Edwards. I have the greatest admiration for Mr Edwards as an individual and for his qualifications. I am on the Steering Committee myself. It is just that I do not think we need to spend this sort of money on bringing somebody from UK to chair a meeting and, therefore, I am not prepared to vote in favour.

HON P J ISOLA:

It is not that the Hon Member is against the recommendation that there should be a Steering Committee?

HON J BOSSANO:

Well, I have my doubts about whether the whole machinery that is being carried out is necessary but, in fact, the Trade Union Movement agreed to cooperate with the enquiry. I cooperated with the enquiry which other Members did not do, in fact, and the Trade Union Movement is participating in the work of the Steering Committee. I am talking about voting public money and I would not have done it this way if I had been in Government so I am voting against it.

HON P J ISOLA:

Could I ask the Hon Financial and Development Secretary, in view of these remarks, does he not consider his estimates to be completely too conservative?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, it is not my estimate, it is an estimate that was prepared by the Establishment Division and when I saw it I queried it and I asked for details and the details I was given I have now given to the House. This is the best estimate at the moment but I think it is likely that we shall have to come back for a supplementary and I should warn the House.

HON CHIEF MINISTER:

Mr Chairman, I would just like to add that the terms of the consultancy has been agreed, that is to say, the rate per day and the expenses and so on, but the estimate of the work will very much depend on the extent to which progress is made and this is why it is very difficult to say for how long. At one stage the original Committee of Enquiry thought it would be 9 months or 9 weeks, I forget now, but this man of course is trying, with the cooperation of the Union, to bring the Steering Committee into the Consultative Committee as soon as circumstances will permit.

On a vote being taken on Item 6, Head 22 - Secretariat, Sub-head 81, Enquiries into Departmental Functions and Efficiency, the following Hon Members voted in favour:

The Hon I Abecasis
The Hon A J Garepa
The Hon M R Featherstone
The Hon Sir Joshua Hassan
The Hon A J Haynes
The Hon P J Isola
The Hon A T Lodo
The Hon Major R J Peliza
The Hon J B Perez
The Hon G T Restano
The Hon W T Scott
The Hon Dr R G Valarino
The Hon H J Zammitt
The Hon D Hull
The Hon R J Wallace

The following Hon Member voted against:

The Hon J Bossano

The following Hon Member was absent from the Chamber:

The Hon Major F J Dellipiani

Item 6, Head 22 - Secretariat was agreed to.

Item 7, Head 23 - Telephone Service

HON MAJOR R J PELIZA:

Mr Chairman, I see the increase is £6,425 which is quite substantial. Could an explanation be given as to why so much money is required and to what extent is the Telephone Directory self-supporting?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, Sir, perhaps the Chairman of the Treasury Tender Board might speak on this one as opposed to the Minister because what happened was that when the Treasury Tender Board looked at this we got the figures for the directory but then, subsequently, it was found that it would be convenient to include within the directory, and I hope that Members of the House will agree, the Direct Dialling instructions and the code numbers for the various places to have it into one book as opposed to having a separate book which I personally always lose when I am in the UK, I can never find it when I want to dial a number. So it was fitted in to the one directory and this pushed up the cost because it pushed up the number of pages by 80.

HON MAJOR R J PELIZA:

Sir, could the Financial Secretary say to what extent the Directory is self-financing as they advertise and all that sort of thing?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

It is expected, and I hope, that over a period of 3 years it will be self-financing, both from the advertisements and from sales.

Item 7, Head 23 - Telephone Service, was agreed to.

Item 8, Head 24 - Tourist Office. (1) Main Office

HON MAJOR R J PELIZA:

Mr Chairman, the £7,000 of additional printing of tourist information literature following the announcement earlier this year of the opening of the frontier. Are they going to be committed or can they be used if the frontier ever were to open?

HON H J ZAMMITT:

Yes, Mr Chairman, this is the result of printing various leaflets and information brochures in four different languages which of course are there, it is in stock, and if and when the frontier opens they will be useful

(2) London Office

HON MAJOR R J PELIZA:

Sir, the £31,500 required to provide for additional promotional activity in the UK and Morocco and visits by journalists to Gibraltar. Could the Minister enlarge on what extra promotion

we have done in Morocco and in UK? Not that I am against the expenditure but I would just like to know what goes on.

HON H J ZAMMITT:

Mr Chairman, as I said in answer to my question yesterday, this year we are carrying out 24 trade promotions in UK.

HON MAJOR R J PELIZA:

That comes out of this fund?

HON H J ZAMMITT:

Oh, yes, very much so. As I mentioned in answer to a question the Tourist Office will be going to South Morocco and are spending more on advertising in the Journal de Tangier and we are pepping up the whole spectrum of advertising in UK and Morocco.

HON MAJOR R J PELIZA:

Could the Minister say if in this sum is included the advertisement in the Victuallers Magazine?

HON H J ZAMMITT:

Yes, it would come under that and Public Relations, Mr Chairman, which are the £7,000 under London Office. We have virtually doubled our Public Relations expenditure in the London Office. We have now spent something like £16,000 on Public Relations as opposed to £11,000 the previous year.

HON MAJOR R J PELIZA:

To avoid having to ask you again on the other items under London Office. The advert that I have just mentioned is coming under the London Officer or under this particular subhead?

HON H J ZAMMITT:

Well, Mr Chairman, the money is controlled from Gibraltar, I must be very honest about that. It is just an expenditure that is related to the London Office in the estimates but the Controlling Officer is the Director of Tourism here in Gibraltar. The advert that comes out in the "Licensee" is subject to the advertising part and the public relations part from the public relations part of the £7,000.

HON G T RESTANO:

Visits by journalists to Gibraltar. What expenses are these?

HON R J ZAMMITT:

Mr Chairman, normally we are very fortunate in getting either the hotels to give us free accommodation for a journalist coming over, hopefully, for a good article, and I must say that so far we have never received an adverse article from journalists brought over by the public relations people and normally the airline very kindly give us the free air passage so the expense that the Gibraltar Tourist Office is faced with could well be food, dinner and lunch or something like that. Normally everything else is covered by the hotel and in fact they are taken around the various hotels and some hotels provide lunch for them some provide dinner and there may be a lunch with the Minister or the Director of Tourism may attend and give them a run down of the whole situation.

HON MAJOR R J PELIZA:

On subhead 18, Replacement of motor vehicles. I hope it is not a Japanese car. Can the Minister confirm that?

HON H J ZAMMITT:

Mr Chairman, quite the contrary, we have had to go for an English car hence the additional funds required.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

The reason why we need a supplementary is because we went for an English car instead of a Japanese car.

Item 8, Head 24 - Tourist Office, was agreed to.

Item 9, Head 26 - Treasury

HON P J ISOLA:

I would like to ask about the £50,000 on Financial Institutions - Enquiries. How is that vote broken up?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

It is an estimate, Mr Chairman. First of all we will have to pay the fees of Spicer and Pegler who looked into the affairs of the Straits Building Society and we have not been able to get their figures yet and, secondly, due to the fact that the Signal Life have not answered the questions put to them in a directive by the Governor, we shall have to appoint either accountants or commissioners of enquiry, a lawyer and an accountant, to enquire into the affairs of the company and report and as Hon Members know, lawyers and accountants tend to come expensive.

Item 9, Head 26 - Treasury, was agreed to.

The Hon J Bossano voted against this Item.

Improvement and Development Fund - Schedule of Supplementary Estimates No 2 of 1982/83

Item 1, Head 101 - Housing, was agreed to.

Item 2, Head 103 - Tourist Development, was agreed to.

Item 3, Head 104 - Miscellaneous Projects

HON J BOSSANO:

It seems to me quite extraordinary that only a few months ago the estimate was filled and it has gone up by over 100%, and I am not prepared to support that.

HON P J ISOLA:

Mr Chairman, can we ask if there is any particular reason for this great difference in the estimates?

HON M K FEATHERSTONE:

The actual point there was that the original estimate was only made by an engineer, it was not done using quantity surveyors etc, and it was to some extent what you might call a guesstimate. The lowest tender actually came in at some £236,000 and then on top of that was all the extra items such as steelwork, construction, electrical installation, tar macadam and various other items that were required to make this a going concern. The situation was that at that time when the guesstimate was actually done, we were very jammed up with work without our QS's and since an estimate was needed on an urgent basis it was put in the hands of an engineer who I am afraid did not have very great knowledge of construction costs, etc. He allowed mainly for the steelwork and the electrical installations etc, and he erred on the rather low side. This is something that can happen occasionally, I have told my staff in future that if they are going to give guesstimates they had better go on the high side.

Item 3, Head 104 - Miscellaneous Projects was agreed to.

The Hon J Bossano voted against this Item.

Item 4, Head 108 - Telephone Service, was agreed to.

Schedule of Supplementary Estimates Improvement and Development Fund No 2 of 1982/83 was agreed to.

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

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

Clause 3 was agreed to and stood part of the Bill.

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

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

The House resumed.

HON ATTORNEY-GENERAL:

Sir, I have the honour to report that the Control of Employment (Amendment) Bill, 1982; the Specified Offices (Salaries and Allowances) (Amendment) Bill, 1982; the Landlord and Tenant (Temporary Requirements as to Notice) (Amendment) (No 2) Bill, 1982; the Elderly Persons (Non-Contributory) Pensions (Amendment) Bill, 1982; the Prison (Amendment) Bill, 1982; the Widows and Orphans Pensions (Amendment) Bill, 1982; the Stamp Duties (Amendment) Bill, 1982; the Loans Empowering (1981/1986) Bill, 1982; the Pensions (Amendment) Bill, 1982; the Landlord and Tenant (Miscellaneous Provisions) (Amendment) Bill, 1982; and the Supplementary Appropriation (1982/83) (No 2) Bill, 1982, have been considered in Committee and agreed to. In the case of the Specified Offices (Salaries and Allowances) (Amendment) Bill, 1982; the Widows and Orphans Pensions (Amendment) Bill, 1982; and the Landlord and Tenant (Miscellaneous Provisions) (Amendment) Bill, 1982, with amendments, and in the other cases without amendments, and I now move that they be read a third time and passed.

Mr Speaker then put the question which was resolved in the affirmative and the Bills were read a third time and passed.

The House recessed at 7.35 pm.

THURSDAY THE 14TH OCTOBER, 1982

The House resumed at 10.35 am.

PRIVATE MEMBERS' MOTIONS

HON P J ISOLA:

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

"This House censures the Government of Gibraltar for the manner in which it has handled the power situation in Gibraltar since 1976 and in particular censures the Government for:-

1. Lack of planning and foresight in providing for an adequate and continuous power supply to the community,
2. Lack of proper provision for staffing at Waterport Power Station and any formal negotiation with the Trade Unions regarding conditions of employment or working practices,
3. The manner in which it has in this House misled the Opposition and the public as to the true state of industrial relations in the generating station,
4. The lack, until a report of the committee of enquiry was submitted, of adequate consultative machinery,
5. Its failure to make public the Preece, Cardew and Rider Report and thus allow the public to appreciate more fully the power requirements for Gibraltar for the rest of this century,
6. The haphazard manner in which it has dealt with the serious power generation problems of Gibraltar for the last five years".

Mr Speaker, this is a motion of censure on the Government as a whole and, of course, on the Chief Minister as its head because it is our view, our strongly held view, that the whole Government has to take responsibility for the situation that has arisen in Gibraltar as a result of the power problems that we have had during the last decade. Technically speaking, I should really only be moving a motion censuring the Government since 1980, because that is when they were elected to power but in view of the fact that the colour and face has not changed previous to that, it is appropriate that we should go back to 1976 when the famous or infamous, we do not know which it is, Preece, Cardew and Rider Report, was published. I say famous or infamous, because we have not seen it. If we had seen it we would be able to say whether it was famous or infamous. Mr Speaker, I think it must have been obvious to the Government, following the report of the

Committee of Enquiry set up by the Government on the Electricity Department, that a motion of censure would follow. It is interesting to note that the position of the Opposition on power generation, the allegations that we have made over the years, have been fully justified by a report of a Committee of Enquiry in which we took no part. The Hon Mr Bossano yesterday made a reference to the fact that he had contributed to the proceedings of the Committee but that the DPEG Opposition had not. I made quite clear the reasons why we refused to participate, there were two really, one was that the terms of reference looked to the future and not to the past which we thought was a mistake, and this again has been justified by the recommendations and findings of the Committee of Enquiry, but more importantly because we were not allowed to have a look at the Preece, Cardew and Rider Report which would have enabled us to make fuller representations to the Committee of Enquiry than we obviously could, not having access to the Preece, Cardew and Rider Report. The Committee of Enquiry, however, they were allowed to see it, they had it before them but we were deprived of it and we wish to register our protest and our continuing public protest at the fact that a Report that is so fundamental to the power planning for Gibraltar until the end of the century is still deliberately kept away from the Opposition. In 1979, I suppose the Government had good grounds for doing that because there was an election to be held shortly but there has been no excuse since 1980 for not letting us have it. Now, I suppose, with a general election in a year's time, it becomes again politically necessary not to let us have a look at the Report. That was fundamentally why we refused to take part in the proceedings of the Committee of Enquiry. We were not able to enlarge on it because we did not have access to the Preece, Cardew and Rider Report. But, Mr Speaker, what I think is interesting to note is that the Report had been pretty damning to the Government, very damning, indeed. Even without the Opposition saying a word to the Committee it is interesting to see the number of distinguished pro-Government persons who gave evidence to the Report, at the head of which was His Excellency the Governor. I don't suppose he can really be described a pro-Government since he was the Governor, but then after that we have the Chief Minister, the Deputy Governor, the Minister for Economic Development and Trade, the Minister for Public Works, the Minister for Municipal Services, the Attorney-General, the Financial and Development Secretary, the Administrative Secretary, the Hon Mr Bossano, who votes so frequently with the Government, I don't know what he said in the Committee.

HON J BOSSANO:

I think, Mr Speaker, the Hon Member exceeded me.

HON P J ISOLA:

I beg your pardon?

HON J BOSSANO:

I think yesterday the Hon Member exceeded me in voting pro-Government.

HON P J ISOLA:

I did not work out the number of times we voted yesterday but it was notable on our side, we rather felt that he had been true to form. I do not know what Mr Bossano said, obviously, and then after that, Mr Speaker, again a whole list of Government senior Civil Servants, again a whole lot of people in the employment of the Government. So with the exception of the Gibraltar Chamber of Commerce and Trade Union representatives, the people who made representations to the Committee of Enquiry were all pro-Government persons who have vested interests in the result of the enquiry. And I think it is significant that despite their efforts, whatever they may have been, the Committee of Enquiry has come out with a Report that is, in effect, a vote of censure on the way the power situation has been handled by the Government during the last six years. Because it is no use, and that is why we have not censured the Minister for Municipal Services in a specific motion, it is no use trying to put the blame on him, Mr Speaker. It is no use trying to put the blame on the Head of the Department. The blame has to be faced by those who took up the cudgels as far back as 1979. The Chief Minister himself who told us in the House how well everything was and that we would have a new 5mw generator in operation within 18 months of his statement and at the end of October it will be three years. From that moment it is quite clear, and I am sure the Chief Minister will accept this, that it is the Government that has taken hold of the matter. We have had a number of debates since then on the power situation and the Chief Minister has taken a leading role. Council of Ministers appears to have taken over from the Minister for Municipal Services in the problems of the generating capacity of Gibraltar. That is quite clear and I do not have to go through all the debates to show this, it is quite clear from the proceedings of this House. So that when the day of reckoning comes, Mr Speaker, it is no use trying to put the blame on the Minister for Municipal Services. He must share, of course, the blame because he is the Minister directly responsible, but it is the Government as a whole that has taken over the power situation, it is the Government in the Chief Minister's office which has been giving instructions to the Head of the Generating Station whenever problems have arisen and therefore, it is the Government as a whole that has to accept responsibility for the report. I think, Mr Speaker, it is self-evident that a Committee of Enquiry that is appointed, I think it was on 4th February, 1982, had two full sessions from the 15th to the 24th March and the 13th to the 17th April, 1982, and found it necessary to take what we think is an unprecedented step to put in an interim report on

the 16th April, 1982, is itself a serious reflection on the Government. 4th February, Mr Speaker, within two months of having their first meeting, not within 2 months, in fact, from the 16th March was their first meeting, within a month of their first meeting they put in an interim report. That is pretty good productivity, apart from anything else. But they put a report in, they found it a matter of urgent necessity to put in a report and tell the Government: "For God's sake set up something, do something about the new Waterport power station. Here you are investing £7m or whatever it is, and you don't even know how you are going to run it, and the power station is nearing completion". What an indictment, Mr Speaker, on the Government of Gibraltar. What an indictment. They cannot say they did not know about it, the power situation has been in this House almost at every meeting of the House since December, 1979, and the Government has kept quiet, has given us the impression that; "all is well, all is fine, industrial relations are good, the Hon Mr Bossano can perhaps confirm that this is now working quite well", and so on, and so on, and so on. They announce the construction of a new power station at Waterport as a wonderful achievement, they get the financial provision for it voted by the House, they give the tender, they put a £7m project into full steam ahead, and the Committee has to come and tell them: "How are you going to run this Waterport power station?" No one seems to know. Surely, Mr Speaker, the Government must concede or must have a very good explanation as to why this position arose. And they were the people who gave evidence to the Committee of Enquiry. Is it that they were incapable of setting up or deciding how it should be administered and, therefore, hoping that somebody else would tell them how it should be done, or was it, Mr Speaker, that they were so worried about keeping the lights on for the people of Gibraltar that nobody had time to think about how the new power station was going to be run? And that, Mr Speaker, of course is the biggest indictment against the Government that comes from this Report. That a Committee of Enquiry that took over a year to set up because the Chief Minister could not find a Chairman, as he told this House, when it was set up it only took this Committee of Enquiry two months or less, a month, to say: "My goodness, whatever may have happened, whatever may be the case, it is a scandalous state of affairs that the Gibraltar Government does not know how it is going to run its power station". Look at the recommendations of the Committee. The City Electrical Engineer, they said, let him forget the Department altogether. Put him in there, get him to set up Waterport power station. His time is going to be fully taken up when that power station is commissioned. You do not know how you are going to run it. Well, for goodness sake, put him there and let the Deputy City Electrical Engineer run the Department. That another Committee, an independent Committee, sitting only a month, should have to tell the Government how to run its own affairs, how to run their Department is surely an indictment of the Government and requires the strictest censure from this House.

And so, the Government, I understand, accepted that interim report, I think it was in September, the 9th of September, some six months later, they accepted it and although the matter was given great urgency by the Committee of Enquiry, it appears that the Government were not able to set up the Steering Committee until September because they said that they could not find a suitable Chairman for the Committee until then, and then they appointed Mr Ray Edwards as Chairman of the Steering Committee, six months later. We were back to lethargic work, the Committee put a sense of urgency into it, the Government put it in proper perspective as they like to say and they took six months to get the Chairman. But the extraordinary thing about it, Mr Speaker, the extraordinary thing about it is the vote yesterday by my Hon Friend Mr Bossano, when we were going to vote the cost of Mr Edwards, some £31,000 as supplementary estimates, and the Hon Mr Bossano voted against it. I am not going to censure him, I am hoping that he will tell us why. We were surprised because he voted without giving any reason so I ask the Hon Member if he could possibly give the House a reason because to us this was a stunning piece of news.

HON J BOSSANO:

If the Hon Member will give way. He did not give any reason for voting in favour, I would have thought that one has to give reasons for deciding to spend money and not for deciding not to spend it.

HON P J ISOLA:

It was a stunning piece of news. We did not give reasons for voting in favour, Mr Speaker, we voted in favour because it was a request by the Government to pay for a Steering Committee, or rather the Chairman of the Steering Committee. A Committee set up by the Government had reported and had asked the Government to set up a Steering Committee as a sort of desperate measure to put things right and we were not going to torpedo that, Mr Speaker, we support that, obviously, we support anything that is going to put this generating station at Waterport on a proper level so that the people of Gibraltar can enjoy a continuous supply of electricity at reasonable cost. That is why it was a stunning piece of news for us to hear the Hon Mr Bossano voting against Mr Edwards because that is what he was doing, of course, the obvious deduction we must make from that is that the Trade Union Movement is not happy with the appointment or they are not happy with the Steering Committee and that, indeed, is serious for Gibraltar. So the Government takes six months to set up a Steering Committee because they were anxious to find a Chairman, presumably, that would please the Trade Union Movement, and then we find the staunchest supporter of the Trade Union Movement in this House voting against paying the man. Perhaps he wanted him to do the job free, I do not know,

but no doubt he will explain it. Mr Speaker, that part is a damning reflection on the Government as a whole. I do not think any individual Minister can deny responsibility for this. It is the Government as a whole, the power situation was taken in hand by the Chief Minister as far back as December, 1979, and I am not going to comment, Mr Speaker, on any officer of the Government that may have been criticised in the report because ultimate responsibility in this House must lie at the feet of the elected Members of the Government side, they must take the can if things have gone wrong for any reason whatever, they must take the can and in the case of power they must take responsibility because they have assumed responsibility in this House. They have answered in the House, they have told us how progress has been made, they have told us of their wonderful plans for a new power station, they have come to us to vote the money, they know the whole thing about the whole situation, and the report is a damning censure on the Government. Mr Speaker, I have really dealt so far with point 2 of my motion - the lack of proper staffing at Waterport station. Now no. 1, the lack of planning and foresight in providing for an adequate and continuous power supply to the community. That is something that we have brought up in this House continuously and it is not really necessary for me to enlarge on it, except to say this. The Hon and Learned Chief Minister, in one of the many interventions he has had on this subject, and indeed when announcing the Committee of Enquiry, said: "Let us look to the future. We want the Committee to tell us how we should do things, how the situation can be remedied". The Hon Mr Bossano, in a motion that he put in, I think it was in March, 1980, when he asked for a new power station which had already been decided and so forth, also said, let us look to the future. We objected because we felt that you could not get a proper analysis of the problems of the power station, of power generation, without looking into the past. You had to look at the causes of the problems and then look for the remedies. And it is interesting to note, Mr Speaker, it is interesting to note that the Committee of Enquiry has said that they had to look into the past. It was inevitable, and imagine, Mr Speaker, if the Committee of Enquiry had been asked to look at the past the sort of report that would have come out. It would have been probably dynamite, I suppose, but they were not asked to do that so they only had a passing reference to it in their interim report. I am just trying to find where that is. Yes, it is in page 4 of the interim report, where they say: "Although it is not our intention to delve into the past nor, indeed, was it inherent in our terms of reference, it was inevitable that during the course of hearing evidence many criticisms and allegations against the Department and all concerned with it should be made". Of course, the past had to be looked at. How can you make decisions for the future without looking at the past, especially in this complex subject of power generation? And the Committee had to look at the past and they had to conclude, Mr Speaker, that the deterioration in industrial relations - they dealt

with industrial relations at page 6 of the interim report, at paragraph 8: "It is fair to say that over and above the criticisms and allegations listed in the preceding paragraphs, two points were made time and again. First, that the deterioration in industrial relations dated back to the general strike of 1972 and, second, that there has not been a proper programme of planned maintenance of machinery since that year when events made it essential that greater maintenance should be applied". I won't go on reading there. Well, perhaps I should. It says: "Where the first is concerned, it has been alleged that memories are long and that management had not been forgiven for trying to sabotage the aspirations of the men. We feel that there is a certain amount of truth in this although subsequent events in 1976, when the party issue was a particular bone of contention, must not be overlooked. Where the second point is concerned, it must be remembered that in the industrial relations atmosphere that has prevailed in the last decade, it has not been easy to prepare a planned maintenance programme which would remain effective for any length of time. To make matters worse, civil foundations problem - there must be a misprint - have also arisen. Nevertheless, we feel that the time has now come for past differences to be buried once and for all". With that we would agree entirely, if there have been. Mr Speaker, the Government, and the records of the House show it, have constantly tried to show that there is a good industrial relation atmosphere. They have admitted that they have had their problems but said that thanks to the intervention on one occasion with this new Works Council, or whatever it is called, of the Minister, he has sorted things out. The Chief Minister has said how good industrial relations were in the Generating Station - he nods his head in disagreement but I will quote something he said in a minute - and that has been the impression that this House has been given. I know that is not the impression the public have been given on the bush telegraph that is disseminated around town where I know, it has come back to me time and time again, that it is the workers in the generating Station that are to blame and I have told the people who have said this to me: "Well, that is not what they say in the House. In the House they say that all is well and we can only go by what Ministers tell us in the House". But that paragraph in the report, Mr Speaker, shows that the Government has misled the Opposition and the public - that is paragraph 3 of my motion - has misled the Opposition and the public in the statements they have made in this House publicly on the issue of industrial relations. That paragraph of the report is an extremely alarming paragraph because it says that since 1972 there has not been a proper planned maintenance programme, Mr Speaker. No wonder we were without power so often and so frequently. No wonder Gibraltar got into such a terrible state. No wonder that the Government in the end had to concede to pressure and build a new power station. Five megawatts will be enough, said the Chief Minister in 1979, and in March, 1980, it had become 10 megawatts. No wonder it was necessary to buy new machinery

quickly and of a greater capacity than had been announced in 1979. Why? Because you had old engines in King's Bastion and there was no planned maintenance programme for it, unless the Committee, of course, is wrong in the conclusions it has come to. And if that is the case then perhaps we will get another Committee to make an enquiry on the Committee that has enquired. It is, Mr Speaker, a terrible piece of news that since 1972 (a) industrial relations have deteriorated for a decade and (b) there has been no proper planned maintenance programme. The Chief Minister said no when I said that we had been misled in the House on it. Mr Speaker, I am not going to go through the Hansard Report but I am just going to, if I can find it, refer to one statement of the Chief Minister at the meeting of the House of the 25th March, 1980, soon after the general elections, when the Hon Mr Bossano rather helpfully moved a motion that we should have a new Waterport power station and the Minister for Public Works in his reply rather helpfully replied: "We are already doing it, there is no need for a motion, we have already put in train". But then there was an amendment that caused all the acrimony, moved by this side of the House. Mr Speaker, if I may refer to page 76 of that column 75/76, there was a difference of attitude apparently in the Generating Station, Mr Netto took a particular view and that is why this particular communique was brought out by the Trade Union some days before the debate and we moved an amendment, to which the Hon Mr Bossano agreed at that time. The Chief Minister said: "Fortunately, instead of taking the rather abrasive and explosive approach that Mr Netto took, the action of the men has been much more reasonable and working methods have been evolved whereby conditions have improved in the output and people are generally as happy as they can be in the difficult circumstances in which they are wrcking at the Power Station. I would like to say that we have had special work to be done in the last two weekends and it has been done with great satisfaction and with great enthusiasm by the men and with the best possible industrial relations between management and men. To introduce into this debate acrimony about the Trade Unionists and the employer is to attempt to throw coal into the fire and try and create more animosity about the difficulties that have been experienced by the people and making political capital out of difficulties that people have had to put up with, a thing which is very unfair". There the impression, industrial relations between management and men, great satisfaction, the best possible industrial relations. There is another reference, Mr Speaker, which I will refer to later in the debate, about the good state of industrial relations. Mr Speaker, as far as we on this side of the House are concerned, this is what we want, good industrial relations. We have always said it but, Mr Speaker - the Hon and Learned Chief Minister smiles - what possible reason could we want for bad industrial relations, Mr Speaker, on this side of the House? To have more stick to beat the Government with? We have all the stick we want, Mr Speaker. They have not done a thing right as far as power generation is concerned and the public showed their dissatisfaction with the present Government in this respect in

the last general elections when the Chief Minister's personal vote dropped by 2,000. The public was worried about it and so was the Government and that is why after the election the Hon and Learned Chief Minister, in his address to the Governor at the first meeting of the House, told the House how seriously the Government took what had occurred in the elections and promised us a new generator within 18 months and we argued that there was a slippage of four months but we have been arguing, Mr Speaker, about four months, about eight months and so forth and in actual fact nobody thought it would be three years from October 31st, 1979. It still has not been commissioned, the new Waterport power station, it still has not been taken over by the Government, it still has not got a staff to run it three years after the statement of the Chief Minister. It is interesting to note that in that debate on March, 1980, Mr Speaker, I crossed swords with the Chief Minister on the question as to when we would have the new power station and it is interesting to look at that because the Chief Minister was saying that the power station would be in operation in the winter of 1981/82 and we on this side of the House questioned him as to what he meant by the winter of 1981/82. We said the winter begins in October and finishes around March/April. What was the date he was thinking because if he was meaning April, 1982, we were talking of 2½ years since his promise on the 31st October, 1979, of 1½ years. We were talking of a further slippage of eight or nine months on the statement he made in the House of Assembly as recently as a month before in the Inauguration Meeting of the House in February, 1980. We argued about this, Mr Speaker, and the Chief Minister said: "Well, anyway, it does not really matter because in April, 1981, and May, 1981, that is when we need less power anyway so it does not matter if a year and a half has gone by in April, 1981, because there is less need for capacity then. When we really want it is in October, 1981, when the winter starts". And, Mr Speaker, we all know the story. October, 1981, went by, November, December, January, February, March and April, 1982, and we are now in October, 1982, and we have got the engines in, they are being used, but it is still not being taken over by the Government, it still has not got the staff to run it. But in March, 1980, the Chief Minister was making again clear statements telling us it would be in the winter of 1981/82 and that it was not very important it should not have been April, 1981, because, after all, there was less need for power. I do not know if Hon Members can recall the events that have occurred since all these statements. We have had additional skid generators since then, we have had power cuts between April, 1981, and November, 1981, and the whole thing went on. Mr Speaker, I am not criticising the Chief Minister for having mistakenly misled the House or having inadvertently misled the House in that debate of March, 1980, about industrial relations and about probable time for the new power station. What I am criticising him for, and what I am criticising the Government for is that it is quite clear in the events that have occurred that they did not know what they were talking about in March, 1980, or in February, 1980, or in October, 1979, and that that

lends weight to the indictment of the Committee's Report of lack of planning and lack of foresight. And lack of planning and lack of foresight has been brought in by that Committee only as a passing remark because it was not in their terms of reference to look into the past. If they had been asked: "Please look into the causes of this problem, please say how they have arisen, and please give us the remedy". If they had said that in the terms of reference we would have got, of course, a much fuller report and the whole question of responsibility would have been finally laid to rest. But the Government did not want that to occur, Mr Speaker, because it is quite clear from the report, from the little that has been said, that if the enquiry Committee had been asked to do that, the causes for the failure of power generation, the causes for the lack of planning, would have been laid firmly at the feet of the Gibraltar Government and elected leaders of Gibraltar because they disregarded the recommendations of the Freese, Cardew and Rider Report that they should have a new 5 megawatt generator in operation by December 1980/81. It is that that the Government did not want to come out publicly in an independent report and that is why the Chief Minister always said: "Let us look to the future, let us not look at the past". But it is quite clear that the Committee of Enquiry had to look at the past. They had to refer to the past because when looking at the remedy for the future they had to look at the past and when they looked at the past, the little they looked at the past, they discovered and they accused the Government of lack of planning, lack of a planned maintenance programme and deteriorating industrial relations since 1972. In this House we have been misled on all those three issues by the Government who have constantly denied them in this House. That is why we now censure them. We know this was the case but we had no evidence to support our case in the sense that we got very little information from the Government benches on the true situation in the Generating Station. It has taken a Committee of Enquiry, people from outside, to confirm what we have been saying for five years. Now, Mr Speaker, the fourth point in my motion; the lack, until a Report of the Committee of Enquiry was submitted, of adequate consultative machinery. Again, one only has to read the interim report of the Committee of Enquiry to see that that allegation is fully justified. I would refer the House to page 7 of the interim report, the need for a Waterport Power Station, second paragraph, no. 9, I think it is. "The new Power Station at Waterport is in an advanced stage of construction and the first diesel generation unit is now likely to be commissioned by September, 1982, the second unit, possibly, during October, 1982. No staffing proposals for the new Station had at the time of writing been set before the Trade Unions for their agreement. Neither has there been any formal negotiations regarding conditions of employment or working practices. In those circumstances we have felt it desirable in the public interest to submit an interim report urgently". Adequately consultative machinery, the lack of.

Here we have a report written in April, when the Government was telling the House, you will recall, that this Generating Station would be in full commission by September, 1982. Now it is October or November. But then it was September, 1982, or thereabouts and they have not put any proposals to the Trade Union according to the report. A £7m investment, the people with power cuts, the people relying on promises that it would all be solved and they still did not know how they were going to give them power. They were going to put the engines, but that is about as far as they were getting. Paragraph 11 - Need for a forward-looking strategy. "We have been very conscious for the need that any report submitted should be forward-looking". - Of course, they were, they were told to do it that way, that was their term of reference - That the large capital investment of the people of Gibraltar should be safeguarded. The people of Gibraltar, Mr Speaker, not the Government, not the Ministers, the people of Gibraltar are responsible for the repayment of the loan that is being raised for the new Generating Station. And that they should be guaranteed an efficient and effective electricity service. I do not think anybody would quarrel with what is said there. "All these factors have predicated the need that we should address ourselves as a priority to the transition of the new generating plant. In fact, it is our view that no final report could have been prepared for consideration before the City Electrical Engineer and the Government were required to take decisions regarding staffing proposals for Waterport and King's Bastion". And then it goes on to the future of the Minister's Committee which they say thumbs down. I am sorry for the Minister but they say thumbs down to the Minister's Committee that was set up with such, you know, if you remember in the House, everything was going to go fine after that, apparently it did not and then they give the immediate problems. The Chief Minister asks me why don't I read the whole paragraph. Very well, I will: "The Committee recognise that the present Minister's Committee has served a useful purpose in overcoming the immediate need to improve both the industrial relations and working conditions in King's Bastion, North and South. It is not considered, however, that this Committee can usefully continue in its present form. All the evidence we have heard predicates against it and without wishing in any way to reverse any established order, we are unanimously of the opinion that the setting up of a more appropriately representative Committee is advisable. This would allow all the staffing negotiations for both Waterport and King's Bastion North to proceed in a more constitutional forum". Was the Minister's Committee unconstitutional? I am not quite sure. That is why I have left it out but now that I have been asked to read it I do pose the question. Was there something unconstitutional about the Minister's Committee when this Committee says "in a more constitutional forum"? But, anyway, what I say is correct, they gave the thumbs down to the Minister's Committee. Anyway, Mr Speaker, I won't go further into that except to say the lack of adequate consultative machinery, there was none. How can the Government defend

themselves against these facts? I think they can do so by denying the correctness of the report, that the Committee of Enquiry did not know what they were talking about, that they gave evidence to the Committee of Enquiry and they told them what the truth was and they have come out with the wrong thing. Where could they have got it? They certainly cannot blame the DPBG Opposition for it, Mr Speaker, we did not take any part in the enquiry. Whatever has been said has been said on the evidence of the Chief Minister, the Minister for Economic Development, the Minister for Municipal Services, the Financial Secretary, the Hon Mr Bossano, the Deputy Governor, the Governor. What fantastic leading actors, Mr Speaker, what a fantastic front bench array of evidence they got. And despite all that evidence they came out with this, Mr Speaker. What would have happened if we had given evidence? If we had seen the Preece, Cardew and Rider Report, if we had been allowed to see it, what would have happened? But we were not allowed to see it, so we refused to participate in the report. That is paragraph 5 of the motion. Its failure to make public the Preece, Cardew and Rider Report and thus allow the public to appreciate more fully the power requirements for Gibraltar for the rest of this century. We originally asked for the Government to make the report public so that people should know what the position was. They refused and then we said at least make it known to us so that we can appreciate the situation, and that was refused. I ask you, Mr Speaker, why was not the public allowed to see it? I accept that there was a lot of technical data in it, I am sure there must have been, but why were the public deprived of seeing a report which was so important to the public? They had been allowed to see a whole string of reports since then, Mr Speaker, but that report has always been kept confidential, when it talked of the power requirements for the rest of the century. Why weren't the public allowed to see it and why were we not allowed to see it? They have given us only one good reason, that we are going to make political capital out of it, that is all. Why weren't the public allowed to see it? The failure of the Government to make that report public I think has led to a lot of possibly misinformed criticism of the Government, possibly misinformed. We may have been wrong in a lot of our criticisms but we have never been allowed to see the report and again I think that having regard to the Committee of Enquiry Report, that is a matter of legitimate criticism of the Government by the Opposition. The last one, Mr Speaker, refers to the haphazard manner in which it has dealt with the serious power generation problems of Gibraltar for the last five years. Let us look at the position. Let me recall the 31st October, 1979. The Minister for Municipal Services gave us a long statement of the situation in the Generating Station, told us all about No. 13, No. 11, No. 10, No. 7 and so forth. He did not mention that there was going to be a new 5mw generator. He did not mention it, Mr Speaker, because obviously the decision had not been made. Then what happens after that? He is questioned on his statement quite considerably and then my Hon and Gallant Friend, Major Peliza, gives notice he wants to

raise it on the adjournment of the House, and he does. And when he does raise it, it is the Hon and Learned Chief Minister who replies and takes responsibility for the Government, rightly so, and tells us that in fact he has had consultations in there and that we should have a new 5mw generator, hopefully, in the station, within 18 months. That was a decision made on the spot because there was a considered statement by the Minister but two hours before and no mention of it. And then the Chief Minister in that statement said: "That should be fine for the next three years, or from that date, since 1984", I think he said. Haphazard, surely. Then we have the next event, more questioning in the House, January comes, the elections, Government is returned with a reduced majority in terms of votes but they are returned to power and they make a statement in the House and then sometime during that year, my dates are not quite right, the situation gets worse and the Minister for Municipal Services tell us that they are going to acquire skid generators and they were going to hire them because of course they would have the new power station in operation within 18 months and there was no point in buying them. I don't know the mathematics of it, the Financial and Development Secretary will no doubt be able to tell us whether in fact they were only kept for 18 months or now it is getting on to 2 years or 2½, I do not know, it does not matter, but suddenly the Government had to have a stop-go solution. They did not have enough power so they had to bring in skid generators to do the work. And then the Government decision switches from 5mw to 10mw because they realise the problems that they are having of which we did not know about and we were not told about. And then later on a new skid generator is brought in and the power station is not constructed in the time that was said, there was slippage, explanations for it, explanations galore, Mr Speaker, but if that is not haphazard, what is? From a position in 1979 that we were alright, by the Minister, to the Chief Minister who said they were going to get a 5mw generator and then it is going to be fine, and we are not going to need it after April, 1981, and so forth, into skid generators, at great public cost and expense, into additional 5mw, and then into an additional skid generator. It was stop-go planning, Mr Speaker, that is haphazard planning. The Government never told us anything about skid generators in October, 1979, or in December, 1980, or in February, 1980. They suddenly realised they needed it and they brought it, for good motives, to try and give people continuous power. I do not blame them for that, but for what we are censuring them for here is the haphazard manner in which they have dealt with the serious power situation. Mr Speaker, since the Preece, Cardew and Rider Report of 1976, it has all been a series of haphazard and ad hoc decisions as the pressure on them has mounted, as the crisis has mounted, as Gibraltar has been put into darkness time and time again. I hope, Mr Speaker, this is the last time we will be discussing the power situation of Gibraltar because it does look pretty certain now, that the new power station will be commissioned in November and with 10mw, with all the sums

that we have done, it looks that things should be alright provided that the new Power Station is staffed, provided it is ready to operate. And so, Mr Speaker, these are in general terms the arguments that I put forward to the House in support of the motion of censure of the Government. It is the Government as a whole that we are censuring. The responsibility lies on the Government as a whole for what has occurred and the responsibility continues to lie because it seems that we are still far from a final solution judging from the vote that my Hon Friend Mr Bossano made yesterday and the deductions that we have made from that. We think that we should be in October, 1982, censuring the Government on this situation after having been told in 1979 that all would be well by April 1981, and then by October, 1981, that we should be in October, 1982, censuring the Government is itself a reflection on the way the Government has dealt with the serious power generation problems of Gibraltar. Mr Speaker, I commend the motion to the House.

Mr Speaker then proposed the question as moved by the Hon P J Isola.

MR SPEAKER:

May I say that when I received notice of the motion, it gave me some difficulty as to the manner it should have been worded because I feel that there are two questions on which the House is asked to take a decision on. It is, in my judgement, a general motion of censure to the extent that it asks the House to censure the Government of Gibraltar for the manner in which it has handled the power situation in Gibraltar since 1976. I think Members should be given an opportunity to vote on that particular part of the motion and then it particularises the censures against the Government which I believe should have been the reasons to support the general vote of censure and like that Members would have been entitled to vote on the general vote of censure without having to subscribe to the particularised reasons. Therefore, I propose, and I say this in order to cut down any debate on this particular aspect, I propose once the debate is over, to put the general vote of censure as a question because I think Members should be entitled to vote, generally, as to the vote of censure and as to the particularised part of the vote of censure I think a separate vote should be taken.

HON DR R G VALARINO:

Mr Speaker, Sir, I rise on behalf of Government to oppose the motion. There are very many things which I do not agree with the Hon and Learned the Leader of the Opposition but they are far too many to enumerate and I feel I shall proceed with what I am going to say because it covers most of the points. In moving this motion of censure on the Government the Opposition speaks with a privilege of hindsight and chooses

to ignore the problem experienced by the whole world in the mid-seventies when national economies and certain industries within them in particular, were facing the severe set-back which the fuel crisis of 1974 represented when prices more than trebled almost overnight. One such industry was the electricity supply industry as small utilities even more so, since they were purely dependent on fuel oils as the only source of supply. This was not the case in the larger national utilities which supplement fuel oil dependent plants with nuclear, hydro and coal fired installations, and thus were less affected by the oil crisis, more capable of recovering and were not in the sorry position of having to pass on such abnormal increases to the consumer. To be more specific, and highlight the point, this House voted £155,000 to meet the cost of fuel for electricity generation in the budget for the year 1973/74 and just one year later, the amount required for the same vote was £584,000; a mere factor of 376.8%. The impact on the consumer was that over the same period the cost of the 60 primary units shot up from £1.48 to £2.10 and the cost of the secondary units almost doubled from 1.2p to 2.1p. This generally difficult situation was compounded in the particular case of Gibraltar by the introduction of parity from 1974 leading to substantial increases in salaries and wages which could not be compared with those being applied elsewhere in a world which was generally going into a recession due to the fuel crisis. Unfortunately for us, the Electricity Department had just then reached a crucial stage in its history, after engine No. 13 was commissioned and there was no room for expansion within King's Bastion. It is against this bleak financial background that planning was required, and whereas it would have been quite simple to have gone straight into a major capital project at the time, as we have now been able to do at Waterport, the financial impact of such a move on the cost of the service to the consumer, coupled with the impact of such high increases in wages and fuel cost, to which I have referred earlier, would have been disastrous. I therefore put it to the House, that contrary to the impression of negligence on the part of the Government which the Opposition is trying to create, there was no lack of planning or foresight, on the contrary the Government could have been accused of irresponsibility if it had not taken the necessary time to investigate all its options and find the best solution in the interest of the public, before coming to a definite decision. This is in fact what happened; the cheapest avenue for the development of generating capacity obviously lay in retaining the generation at King's Bastion, introducing a re-engining programme, whereby old engines with low ratings would be replaced by ones with higher capacities. The process would have been initiated in the South engine room and over a period of time many of the engines would be replaced. Quotations were obtained for the most suitable engines to fit in the spaces available, but because of the limitations of space and working areas, these costs were definitely on the high side. Furthermore, the station would

continue to operate in the heart of the City and this mitigated against such a course of action. Additionally, the heavy construction of the Bastion itself necessitated a considerable amount of civil works if improvements to working conditions and plant installations were to be contemplated which in these circumstances represented substantial expenditure for limited modest gains. The second and logical alternative naturally lay in the construction of a new station elsewhere. However, the cost of such an ambitious project was high by comparison though logically its advantages were far greater. While favouring this line of action, consideration of the money which was acquired did present difficulties and despite several visits to the United Kingdom by the then Financial Secretary the money required was not easily to be found as money was at the time generally in short supply. In these days and in spite of the oil crisis, we were still in a seller's market and it was feared that the impact of such a major Capital Works Programme with its subsequent amortisation requirements could not be embarked upon as it would have further aggravated the effects of the other increases in operating costs of which I have already spoken. It was not until Government had introduced new fiscal measures and tighter expenditure control in the 1979 Budget that borrowing for such a large project became practicable. The House will of course appreciate that this general planning work which is normally an on-going exercise was seriously interrupted during most of the years 1975 and 1977 as a result of the various serious industrial actions which then took place. Work was resumed in earnest during 1978 when it was felt that the effect on supply costs to the consumer would be mitigated and operating costs lowered if any new station could be jointly built with the Ministry of Defence. Reports were prepared both in 1978 and 1979 and despite the considerable advantages offered by this approach, the MOD finally decided against it in connection with the defence spending programme. Thus, despite the great amount of work and effort involved in all this preparatory work, the Government concluded in 1979 that a project of this nature as contemplated would have to be funded from its own resources. However, by the winter of 1979 we were faced with a power crisis on our hands which was more serious than could ever have been imagined. The demands made on the plant were within its capability but the plant itself had suffered the effects of long periods of industrial action, foundation problems had developed on a few of the larger engines in the North Station and maintenance programmes had been disrupted. To make matters worse, in March of 1980 one of the large engines was lost for a long period due to a failed crank-shaft. By this time the Government consultants Preece, Cardew and Rider were already engaged in conjunction with departmental staff in the design and the preparation of tender documents for what is now the Waterport Power Station. Faced with a shortfall in the generating capacity required, the Government followed the course of action taken by many other small utilities and recommended by the consultants which was of course to import temporary plant on hire for a

bridging operation until the permanent installation could be complete. This is nothing new and as I say many small undertakings have been faced with similar requirements. Mr Speaker, contrary to the impression which the Opposition seems to have obtained from the report produced by the Committee of Enquiry, it is completely incorrect to say that there has been a lack of adequate consultative machinery in the Electricity Department. In fact, for a very long period there was a Departmental Works Council. The Council was actually set up in 1973 following the general strike in August of the preceding year. The Council consisted of two Shop Stewards and Senior Departmental Management. Right up to September, 1979, this Committee met regularly and in fact did very good work during the difficult period in industrial relations during the mid-1970's. It was instrumental in dealing with the introduction of the banded pay rates, carried out the identification of the craft allowances meriting areas of work, job descriptions, efficiency payments, productivity schemes and the multiplicity of special allowances which came into effect when parity was adopted. It is true that the Council had no negotiating power but was a consultative forum to deal with areas of application of the new regulations. The Works Council was substituted in November, 1979, by a Joint Consultative Committee. If I may quote from the Hansard of 5th December, 1979, I said then: "The Joint Consultative Council which has been established initially in the Generating Station is not a negotiating body as such and its purpose is not to deal with claims or industrial dispute. The forum which has been created in addition to the normal negotiating machinery will nevertheless have some relevance in the field of industrial relations and eliminating as a cause of possible friction between management and shop floor on all the minor issues which are, in the main, the result of, lack of communications. Because the Council is a consultative body which cannot take majority decisions, it is not a question of one side imposing its views on the other, but both sides working today to restore the technical and human relations problems that exist in the Generating Station as, indeed, they exist elsewhere". This was the function of the Joint Consultative Committee. Due to the delicate industrial situation which developed during the power crisis that year, it was felt that wider representation was necessary from both the Management and Staff Sides to cope with the problems and tense situation created. Two sub-Committees were created to deal in detail with areas of disagreement. These Committees met on a number of occasions between November, 1979, and February, 1981, but the Consultative Committee had got off to a poor start because one particular section refused to have representation on the Council. By February, 1981, further problems developed as a result of which another important section voted to withdraw its support to the Council and following this the machinery was no longer considered to be effective as a consultative forum. Within a couple of months, in fact, in May, 1981, during the course of a Work to Rule carried out by supervisory staff and following a dispute in the very section which

had withdrawn its support from the Consultative Committee, a meeting with the Minister for Municipal Services was requested to discuss these problems. The meeting was successful and at the request of the Union a Committee chaired by myself was kept in being and came to be known as the Minister's Committee. This Committee continued to meet regularly right up to the time of the Enquiry. The Hon Member opposite was talking about whether it was constitutionally correct or not.

HON P J ISOLA:

Mr Speaker, I just posed the query that I did not understand what they meant by the constitutional forum. I think I am beginning to understand having heard the Minister.

HON DR R G VALARINO:

Thank you. Mr Speaker, there was no breach of the Constitution. The enquiry says that this type of Committee should not be chaired by the Minister and this is why they recommended that there should be an independent Chairman. In fact, talking about an independent Chairman, I am pleased to see and I welcome the fact that the Chairman of the Steering Committee, Mr Ray Edwards, is in the House today.

MR SPEAKER:

One must not ever refer to the Public Gallery.

HON DR R G VALARINO:

I am sorry, Sir. Equally, Mr Speaker, there has been no lack of planning to meet the staffing needs of the Waterport Power Station. In fact, planning started at a departmental level quite some time ago but unfortunately before negotiations with the Trade Unions concerned could start, events were overtaken by the Committee of Enquiry and its own recommendations which as is now known led to the setting up of a Steering Committee under an independent Chairman. It is true that though the Final Report of this Committee was produced in June, it did not start its work until very recently because there were some considerable difficulties in finding a suitable person to act as an independent Chairman. As far as this is concerned the Hon the Chief Minister will have something to say on this later on. One of the other points raised by the Leader of the Opposition was the question of industrial relations within the Generating Station. Mr Speaker, industrial relations in the Electricity Department have not been good for a number of years, and this has been common knowledge. This is generally the case in essential service industries where the negotiating muscle of the labour force is generally greater than in other industries. There have undeniably been difficulties with the plant and its

operation which by leading to breakdowns of the service at times, have placed additional pressure on the staff and management sides, which in themselves have not been conducive to good relations. In dealing with these matters it has never been the intention to mislead anyone, but it has been our policy, and it is our privilege as Government, to decide on matters of policy, to adopt a low profile in the various aspects of labour relations within the Electricity Department because it has been our view that to have done otherwise would have led to complete confrontation and it was not in the public interest to have pursued this course of action in the past. As for the now much laboured Preece, Cardew and Rider Report, I will repeat what has been said over and over again in the House; which is that this Report like any other, becomes a confidential document and it is the Government's decision whether it wishes to make it public. The relevance of the recommendations of any report, and particularly one which attempts to look way into the future, have to stand the test of time and their validity based over long term predictions are continuously subject to changing circumstances. This Report itself was superseded by a further one and I have no doubt that more will follow over the period it purports to cover. Assessment of electricity demand is a constant on-going exercise and is influenced by socio-economic and political factors which are ever changing. The closing of the frontier with Spain had a considerable effect on demand and patterns, equally a re-opening of the frontier will have another effect which only practical experience will bring to light. Therefore, such a long term report was and even more-so now, still is of little interest or value to the general public.

HON MAJOR R J PELIZA:

What a lot of nonsense.

HON A J CANEPA:

Mr Speaker, I think we have heard the Hon Leader of the Opposition with all due courtesy. I think the Minister is entitled to similar courtesy from Members of the Opposition.

HON DR R G VALARINO:

Mr Speaker, I quite agree with my Hon Colleague. We listened to the Hon Leader of the Opposition for over an hour in silence and the least one would expect from the Opposition is to let me say what my feelings are and if they then want to criticise and bring up points they are quite free to do so. But to interrupt a speech is

HON MAJOR R J PELIZA:

It is not uncommon in this House.

MR SPEAKER:

Yes, but let us not do it.

HON DR R G VALARINO:

Mr Speaker, Sir, I will repeat what I said at the start. It is easy enough to speak with the privilege of hindsight but the cold examination of the facts show beyond question that the censure motion is completely unjustified and clearly motivated by political opportunism. Sir, needless to say, for the reasons given, the Government will be voting against the motion moved by the Hon Leader of the Opposition. Thank you, Sir.

HON G T RESTANO:

Mr Speaker, the Minister says the Hon Leader of the Opposition's motion has the privilege of hindsight. What a load of nonsense. If he were to look at his Hansard he would find that it was not in 1982 that we suggested to the Government that they should increase their capacity in the Generating Station. It was not in 1981, it was not in 1980, no, it was not even in 1979, it was in 1978 when the Opposition first started asking the Government to increase its capacity. So to say that the motion has the privilege of hindsight is a load of rubbish because there is no other argument that the Minister can use to justify the accusations that have been made in the motion. He did bring up some red herrings such as the fuel crisis in the mid-seventies but what on earth the fuel crisis in the mid-seventies has to do with planning for more generating capacity I don't know, it certainly, I think, has nothing to do with it. He also spoke about bleak financial background in the mid-seventies which was in fact, of course, the time when the British Government through Mrs Judith Hart who came to Gibraltar and gave us £14m, so part of that had it been sought could have been used for power generation. As far as the skid-mounted generators are concerned he justified his position by saying that of course they had been purchased because there had been consultation with the consultants and that they recommended it. Of course the consultants had to recommend some immediate action at that time because there was a terrible situation in Gibraltar, a terrible situation when there were power cuts and the Government just did not know how to keep Gibraltar supplied with electricity. What other course could the consultants have recommended? Something had to be done, that was the only thing. But why had it to be done? It had to be done because there had been no planning in the past. Then we come to the question where he disagrees with the comments made by the Committee of Enquiry on the question of consultative machinery. Well, he told us, there was a Works Council appointed in 1973, and this was

HON CHIEF MINISTER:

If the Hon Member will give way. What he was dealing with was an item in the censure motion as to the lack of consultative machinery.

HON G T RESTANO:

Mr Speaker, he said that there was a Working Council in 1973, which was then replaced by a Joint Consultative Committee in 1979, and then in February, 1981, that Joint Consultative Council was thought not to be effective. Well, that is the whole point, I think, of what the Committee is saying. The Committee is saying that there was a lack of consultative machinery, of successful consultative machinery, and it has been proved that those Committees and Councils were unsuccessful by the bad industrial relations that had existed over the years in that department. Mr Speaker, I want to go back to a little bit of the history of the Generating Station. Engine No. 8, which is the oldest of the remaining engines, was imported into Gibraltar in 1956. In 1961, No. 9 engine was imported, a year later in 1962; No. 10, 1967 was when No. 11 was imported, the following year in 1968, No. 12, and the largest and biggest one, No. 13, was imported in 1972. Since 1972 there has been no importation of machinery other than the skid generators and in an era, 10 years that is, in an era where we have had the explosion of electrical appliances all over the world, where television sets, washing machines, everything, all the electrical appliances are used, and yet in 10 years no planning. In 1976 we come to the Preece, Cardew and Rider Report which the Ministers say is not of value to the people of Gibraltar. That Preece, Cardew and Rider Report, Mr Speaker, had recommendations, many recommendations. A few that we do know. We know, for example, that it said that there was a need for power development. We know for a fact that a 5mw engine was recommended, we know for a fact that that 5mw engine was recommended to be in Gibraltar since 1979/80. But how many other recommendations were there? How many other recommendations have been kept secret? And why have they been kept secret? I remember one reason given by the Chief Minister and that was that he did not want to give ammunition to the Opposition before an election. Mr Speaker, if the Hon Chief Minister now says that he did not say that, I would advise him to read his Hansard of December, 1979. And I quote: "I am not prepared, as I say, to give ammunition to the Opposition in order that they should do that". I think, Mr Speaker, that the Chief Minister should know me well enough to say that when he has said something, I know for a fact that it has been said. Why the secrecy? Of course there is ammunition in that Report. Of course there is ammunition, because consultants were brought out in 1976, they made a Report, they made recommendations, all that had to be paid for by the people of Gibraltar and yet what did the Government do? Nothing. No action whatsoever. That was the ammunition

that the Chief Minister, I would imagine, did not want to give to the Opposition. And there were power cuts, and people suffered, and as I have said before, in October, 1978, without the benefit of knowing the contents of the Report, the Opposition suggested that extra engines should be purchased. And there were more power cuts, and although a year earlier in 1977, the Government already had an inkling, a very good inkling, of the state of affairs in the Generating Station through a Ministerial statement made in the summer, nothing was done. We continued to ask questions, continued to have motions, but nothing was done and people continued to suffer with the power cuts and to pay, too, because how much did people have to pay out of their own pockets for butane equipment, torches, candles, traders had to pay, how much did traders have to pay in goods that perish, in loss of business, and what about tourism, the effects the power cuts had on tourism? Tourists who came here hoping for a nice holiday, their meals interrupted by power cuts, the lifts in the hotels, those people will never come back to Gibraltar again and that is a direct consequence of the lack of planning which the Government have had in the Electricity Department. Who is to blame? It would be easy to blame the Minister. I will criticise him later on another aspect but not on this particular one. After all, since 1976, which is referred to in the motion, there have been three Ministers for Municipal Services. One who is no longer in the House, the Hon Major Dellipiani and now the Hon Dr Valarino, three Ministers.

MR SPEAKER:

I think there were two, I am not sure.

HON G T RESTANO:

The Preece, Cardew and Rider Report was made in 1976.

MR SPEAKER:

But who was the other Minister?

HON G T RESTANO:

One who is no longer in the House, Colonel Hoare. So there were three. The real culprit is the Chief Minister, his is the responsibility. If we are to blame the Ministers, those Ministers are appointed by him and he is the Head of the Government. He was the one who lacked foresight and he is the one who stands accused for the suffering of the people of Gibraltar due to the power cuts over the last five years. It is his responsibility because as has been mentioned by my Hon Leader, he was the one who announced in desperation in October, 1979, that the Government would be purchasing a 5mw engine. Why was it him and not the Minister? I suppose it

was his justification before an election to be able to go to an election and say: "I have now decided to buy a 5mw engine, and not only have I decided to have a 5mw engine, but I will have it here in 18 months", in an eagerness to justify himself to the electorate for all the power cuts. But he grossly misled the House, and the people, because he did not have that engine out here in 18 months, nor in 2 years, nor in 2½ years, 3 years, double the time. It must have been, I suppose, complete misjudgement to say that he would have the engine here in 18 months because I cannot believe that it was any calculated act to mislead the people, surely, but a misjudgement as there have been misjudgements by his Government in so many fields in Gibraltar. And so there were elections and the Chief Minister came back as Chief Minister to this House and, funnily enough, I remember that during the election campaign there were no power cuts. I wonder how much that cost the people of Gibraltar at the time? How much it cost in either overloading the engines or even paying people more to make sure that there were no power cuts. But they came back after the elections, of course, the power cuts. Oh, yes, they came back after the elections with a vengeance, and people continued to suffer, and people continued to pay, and people continued to pay, for example, buying small generators so that shops could be opened to serve the people. And then came the saga of the skids. Skids which we have always felt on this side of the House should have been purchased rather than hired. At the end of the day the cost of the hire and all the overheads of those skids is money for which we will see nothing. It has gone. Those skids will be returned at the expense of the Government and perhaps for slightly more, only slightly more now, because it is now running into many, many months, those skids could have been purchased and retained in Gibraltar in case at a future date there was any requirement for them or, perhaps, they could have been sold off to somebody else and that, too, would have been an extra income. But whatever the reason, those skids had to be brought in because there had been a lack of planning for the power station. And did we get rid of those power cuts? No, we did not get rid of power cuts. From time to time there were power cuts and we were told that three skid-mounted generators were out of action. We had a motion in this House, Mr Speaker, for the Government to provide a public enquiry into the Generating Station and they refused, they voted against it but they decided to have a Committee of Enquiry. I do not know really, whether they are so happy now to have had a Committee of Enquiry because really what the Committee of Enquiry comes up with and shows is that there has been complete mismanagement of our affairs in the Generating Station. Some of the recommendations are absolutely elementary. It should not have been necessary for the Committee to come up with some of the recommendations, they are just common sense. And I suppose if that particular department was being run with such lack of common sense, I wonder if any other departments in the Government are being run with that lack of common sense. Let the Chief Minister not hide behind his Minister in the taking of responsibility. I would have

thought that on a motion of no confidence on the Government, it is the Chief Minister who should have replied to the Mover of the motion and not allow his Minister to reply for him. He leads the Government that mismanages Gibraltar's affairs. And what has the cost to Gibraltar been of this mismanagement in the Generating Station? How much has the consultants' report cost, a report that has not even been adhered to? How much have the ski generators cost, over £400,000? How much have the people of Gibraltar had to pay during power cuts? How much have we lost in tourism because of them? How much have we had to pay in overtime because of lack of planning and lack of maintenance programmes? This Government has nothing left to offer, Mr Speaker, They have no new ideas. They cannot as has been proved in the report, they cannot run Gibraltar with any sense of efficiency. They perhaps try to give their best but it was found unfortunately wanting. How should the Government deal with this motion? I think that the only honourable way, if there was any moral and political integrity left, was to resign from this House, abstain from the motion, resign from this House, go to the polls, call a general election, and let the people decide whether and who is worthy to run Gibraltar.

HON CHIEF MINISTER:

I could easily take that challenge and get another 4 years according to habit. Mr Speaker, when I saw this motion, I had the impression that here was the Opposition trying to flog a dead horse and to some extent the intervention of the Leader of the Opposition confirms that except that towards the end it confirmed it in a way but on the other hand it showed that they were at the end of this problem and that they could not hit at us any more because after all we are now having a good and modern power station and there should be no reason why there should be any more problems. But then, of course, hearing the Hon Mr Restano, I really think that not only was he hitting at a dead horse but he was trying to go to the funeral with it and trying to repeat the old complaints that have been made here. The change of attitude of the Members of the Opposition about who is responsible and now saying that it is the Chief Minister. Of course the Chief Minister is responsible for what the Government does and the Chief Minister is also responsible for the way in which the business of this side of the House is conducted so if the Minister has made his statement at the beginning it was because it required a quiet and realistic assessment of the situation which he has done and put the matter in its proper perspective. But this change of attitude on the part of the Opposition to say: "Ah, nothing to do with the Minister, it is the Chief Minister", does not seem to fit in with the communique which was issued after my last reshuffle when I was told that I should dismiss the Minister. So, where are we? Do they often meet to find out what one is going to say that the other one has not, or that the other one that is in London has not heard what is happening here and so on? This really shows that they are really trying to

make the utmost political capital of what is something that is now really historical in some respects. But, of course, we do not shirk our responsibility and the fact that we do not shirk our responsibility was that we appointed a Committee of Enquiry, but a Committee of Enquiry would look, as we said, to solving the problem. Of course we knew that the Committee of Enquiry would have to look at the past in order to judge the future. But what the Opposition wanted, which is a little of what they have done today, is a Commission of Enquiry in order that they would look at the past, make assessments, and then they could come up and say: "I told you so", and apportion blame. Apportioning blame in a situation such as this would have done no good at all because it is no secret that there have been difficulties at the Power Station, it is no secret that part of the problems arose out of industrial relations, and let me say that when we speak about industrial relations we are not talking of the workers only. When we talk about bad industrial relations, whoever may be to blame, arise also out of management as well. It isn't that we are saying we were keeping quiet about this, of course not. And we have no bush telegraph, but that the people had a feeling that things were not alright at the Power Station, yes, of course, it was known to everybody, and that a lot of the difficulties that we have had have been as a result of the bad industrial relations there is no secret either but the fact that we did not want to seek a confrontation on that basis and bring Gibraltar to a complete darkness in order to see who was going to win the battle as between one and the other, I think it is the most responsible thing that any Government can do despite the fact that it knows that it is subject to criticism particularly by right wing people like the people in the Opposition who hate anything to do with proper industrial relations and who really are saying: "Well, Bossano must be got rid of. This is the only way to solve Gibraltar and so on". This has been said by Members of the Opposition, I have heard them, not that I care whether Mr Bossano has got to be got rid of or not, he can look after himself, I do not care about that, but this is the attitude of the right wing Opposition that will never be a Government and I was thinking before that there are only two Members in the Opposition who have had any experience of Government. One Member who was elected as a result of a coalition and the other one, Mr Isola, as a result of a coalition, too, never elected as a Minister in Gibraltar. In the 1964 election he was Leader of the Opposition and he became a Minister when we had a coalition in 1965, but after that he has never held office except when he was my Deputy but he knows enough, he has been long enough in Government to know that one thing is to talk from there and the other thing is to meet the realities of a situation. We talk about a whole spectrum of years and what has been done and what should have been done. There is one area of which I have particulars to show what people ask and recommend and what the Government had to do and the difficulties it finds to do it and that of course is with one of the headings in connection with the Steering Committee, I will put it that way, I

do not know under what heading it comes. Let me tell the House of the difficulties and the delays in setting up the Steering Committee which was considered so urgent that the Committee of Enquiry rightly made an interim report with that recommendation. That was a recommendation that we should appoint an independent Chairman and set up a Steering Committee that would lead to a Consultative Committee, that would lead to proper negotiating and consultative machinery to see that the difficulties that we had had in the Power Station in the past would be solved. I have a track record of what has happened on that, Mr Speaker, and I must refer to it not because I particularly want to go into this amount of detail but because it is typical when you have a record, it is typical of the difficulties that Government finds itself in carrying out its duties and it is typical of the difference between preaching from the opposite side as to how things ought to be done because anybody listening to the debate this morning would have thought that the Council of Ministers meets on a Wednesday and decides whether we are going to have a 5mw Power Station or whether we are going to have this or we are going to have the other without consultation, without proper machinery, without proper advice, without proper enquiry as to the money, without proper investigation by the department, or by the Treasury and so on.

HON P J ISOLA:

Isn't that what happened on October 31st, 1979? Out there he decided it, isn't that what he did?

HON CHIEF MINISTER:

Yes, yes, of course, I assume full responsibility for that, the Government has got to take decisions at times but normally, the Hon Member well knows that is not the case. Mr Speaker, the interim report was submitted to His Excellency on the 16th April. It was circulated to Council of Ministers on the 19th of April and considered on the 21st April when the recommendations of the Committee were approved, the interim report. I then decided to approach somebody independent in Gibraltar who would be the Chairman of that Committee and we all know when we want people of calibre that our sphere is limited, we have to find somebody who has the calibre to do it, you have got to find somebody who would also be acceptable to both sides, particularly to the union, because if one thinks of a person it is because he is acceptable to one and he has to be acceptable to the union. I approached a prominent citizen immediately after the Budget Session, which was at the end of April, actually on the 6th May, shortly after we finished with the Budget. So we have the dates. Report on the 16th April, Council of Ministers circulated on the 19th, discussed on 21st, Budget Session in between, approach on the 6th May. The person I approached liked the challenge because it was isolated and did not mean an on-going thing, it was a job to be done but unfortunately

a few days later came along and told me that because of particular difficulties that were going through, a part of his business activities, that was the wrong time but he was available for any job of that kind of nature if I called upon him. Therefore when I saw him on the 6th of May he said: "I do not want to say no straight away, I want to think about it but there are these difficulties in addition to some medical difficulties that there were at the time". A few days later he came along and said: "I am very sorry, I really cannot accept it". Then I saw another prominent person on the 14th of May who again thought that he was too committed and so on but he did not want to say no without thinking about it and he came and rejected it on the 17th of May and then between the 17th of May and the 25th of May I approached a third one who sent me a very nice note on the 25th of May saying that he really could not because of his many other commitments. Let me say that in all these cases I tried to clear with Mr Bossano, actually, because he is the representative of the Union, whether the person would be acceptable because it is no use appointing an independent Chairman that was going to be met with a rejection on the part of the Union. After discussion with all concerned about these difficulties, Mr King, who was the Labour representative in the Enquiry, the Enquiry was chaired by Sir Howard Davis, Mr King was the experienced Trade Unionist and Mr Jackson was the Engineer, Mr King who was a member of the Enquiry was approached on the telephone and on the 8th of June, I remember the rejection came on the 25th of May, on the 8th of June he undertook to consider the proposal in consultation with his former employers with whom he had entered into a commitment to do some extra work for them. As Mr King had done the Enquiry we thought he might be good, he said that he liked the idea but he wanted to clear it because he had already got a commitment to do another job of this nature. Then the matter was discussed with Mr King during his visit to Gibraltar in the week commencing the 14th of June, we approached him on the 8th of June, he said that he had to consider it, he came to Gibraltar during the course of the enquiry and then terms were agreed on the basis of his consultancy subject to his being able to arrange matters with his former employers with whom he had taken a commitment to do certain work. On the 22nd of June Mr King telephoned from the United Kingdom to say that he could not undertake the task. Then Mr Jackson, the other member of the Committee, who after all they were the people who had recommended the Steering Committee, was on that same day approached, that is on the 22nd of June, and on the 24th of June he replied saying that he could not be released by his employers. This was on the 24th of June. On the 25th of June, at a meeting with the Governor, I asked in desperation whether the FSA/DCE might be able to help. His Excellency asked for more details and these were provided under cover of a letter which I sent him on the 28th of June. On the 30th of July, the Deputy Governor sent the then Acting Administrative Secretary details of five persons suggested by the PSA. On the 14th of July the Establishment Officer telephoned the Administrative Secretary, who was in London, asking him to contact two of

the persons in the list provided by PSA who appeared to be the most suitable with regard to age, experience and so on. So, really, the Administrative Secretary was in London the day after we were given the names, we rung up the Administrative Secretary and asked him to try and contact two people from a list we had been given. We sent him a telex giving details of the two persons concerned. The Administrative Secretary telexed back asking for details of the duties of the Steering Committee and these were provided because in London they did not have the report and he wanted to approach these people with the duties entailed in the recommendation for the Steering Committee. On the 15th of July the Administrative Secretary spoke to one of the two gentlemen but was unable to contact the other one until the 16th of July, the day after. Then he telexed the Acting Administrative Secretary on that date and the latter wrote to one of them on the 19th of July. This gentleman replied on the 26th of July to say that he could not undertake the task and the Administrative Secretary wrote to the other gentleman on the 27th of July and arranged for the letter to be taken to London by hand and posted there. This gentleman declined on the 31st July. The FCO suggested somebody who was approached and also declined our invitation to chair the Steering Committee. Then we approached Mr Jackson, the engineer who was a member of the Committee and who had declined and he was not available until the following day when the Administrative Secretary told him of our problem and suggested that he might consider whether any of his colleagues or acquaintances in the industry might be suitable and able to take on the job. Mr Jackson telephoned back on the 4th of August to say that he had approached one possible candidate who, however, was not interested and had been unable to contact another who appeared to be out in the country. He suggested that the Industrial Society, which is a very well recognised Society which is run in order to help in industrial problems, I think, mainly, in the private sector, he suggested that the Industrial Society might be able to help and the Administrative Secretary agreed with his suggestion that he should put the matter to them as soon as possible. He explained the urgency arising out of the fact that the reliability tests were about to commence. Mr Jackson telephoned again on the 5th of August to say that he had contacted the Industrial Society and they seemed to be interested and said that the problem was one within their ambit. It would however, be necessary for him to speak directly to a Director, a Mr John Garnett, who would not be available until the 6th of August. He undertook to telephone him on the 6th of August and the Administrative Secretary would then hear from either Mr Garnett or from Mr Jackson. Very shortly after that the selected person who is now carrying out the Steering Committee Chairmanship came out to Gibraltar to look at the situation to negotiate terms for his consultancy and he immediately took up the job. This is an indication, Mr Speaker, of the unfortunate events that led to delays taking place in Government departments. I have no doubt that there are many delays in Government departments that can be avoided,

that are probably the result of negligence or lack of due care or lack of a sense of urgency and so on. I am not saying that that does not happen in the best of places. But in this record that I have set out here I hope it will be appreciated that it is all very well for a recommendation to be made by an Enquiry Committee as it did, and it is then the practical difficulties of putting it into effect. Here we were from the 16th of April until August trying to seek a chairman and every step that was taken in that respect which of course have been recorded in the course of things, have been extracted from the records and I have given the House an indication of the difficulties. Had this been possible early in May, we would have had the advantage of three months of work.

HON P J ISOLA:

If the Hon Member would like to give way. Of course in the motion the lack of proper provision for staffing is taken from the interim report. We are quite happy to hear the explanation between April and September but you will recall that my criticism has been at the fact that up to April there had been no provision. This is what I said. I agree the motion can be read differently but the Hon Member has spent half an hour telling us all he did but not telling us why he did not do it before April, 1982.

HON CHIEF MINISTER:

It is what has happened since then. We have to look at the motion on the 14th of October, we have not got to take the motion on the 16th of April or before the 16th of April. We have to look at the whole picture. In fact, the Minister has said that plans had already been made for the staffing of the Waterport Power Station but what were those plans going to be when in fact we had commissioned an enquiry and the enquiry had made an interim report asking what had to be done immediately. Had it not been for that enquiry the Waterport staffing situation would have gone along in consultation and as the Minister has said of course the Government and the department had plans and ideas of how the Power Station had to be manned. It would have been ridiculous to start a £7m programme and the department not taking any account of the fact that that station had to be manned, that is ridiculous.

HON P J ISOLA:

That is what the report says.

HON CHIEF MINISTER:

It does not say that. The report does not say that. The report found that before any of the proposals could be put to the Union it should be better to create this machinery in order that it would start on a good basis. Really what we are talking about in this case is not just a question of whether something happened in 1978 or 1976 or whatever but the action taken by the Government particularly on that interim report and that I only mentioned first of all to inform the House and the public of how matters are taken when recommendations are received and so on and to also show the difficulties that are encountered in carrying out recommendations, be it from a head of a department or be it from a powerful enquiry team as this one was. Another point that has been made by the Leader of the Opposition in the motion is the formidable number of Members of the Government who were interviewed by the enquiry apart, of course, from the Chamber of Commerce, the Trades Council and Mr Bossano. But who else would they have enquired from? After all, if they were enquiring how the Power Station was being run, they were not going to ask the people in the Public Works Department, they have to ask the people who were running it. They were enquiring into the matter and they were therefore finding out how the thing was being run. Who else could they meet? The Opposition chose not to cooperate, that was their privilege. I requested them to reconsider but they did not want to, that is their privilege. But they met everybody, other than the Opposition who declined, who chose to meet them because they put up an advertisement and they invited, through the press, anybody who had anything to say and they saw the normal representative people in these matters, the people who represent the affected people, the Chamber of Commerce, the Trades Council, the Unions and so on. And, of course, everybody running the Power Station. They had to. How else could they come to a judgement? If you say: "Well, the judgement is that something is being badly done", and the people in the Power Station have not been consulted they would be very resentful that any suggestion had been made without their having been heard. That I think is really a ridiculous suggestion to say the formidable number of people, all of one side. Of course, they are the people who are running the Station. They were enquiring into that and also there were outsiders who volunteered or who were invited and responded. If ever there was a red herring that was one, to suggest that they should not have seen anybody other than people outside because the people inside were going to tell them the best story possible. The enquiry team was not going to be misled, they have made the enquiry, they have made an assessment, there are criticisms in the report, we knew that there would be criticism in the report, of course, but the great difference is that the report has always been intended to settle matters for the future and not to have an inquest on the past that would have exacerbated the position, that would have started to apportion blame and which would have created precisely that confrontation because everybody thinks that he

is right in what he does and when it differs with somebody else he thinks the other fellow is wrong and therefore an inquest into past difficulties would only have given satisfaction to the Members of the Opposition. I am satisfied as the Leader of the Government that that was not in the public interest. I have the responsibility and the power to make that judgement and I made it and I am proud to have made it that way and though I know that it is the role of the Opposition to oppose what the Government does, it does not worry me in the least because they have to do that, it is part of their policy. I suppose they do little enough because they do not write letters to Ministers, they do not look after constituents in that way, they wait until a meeting comes to find out whether the lavatories at the Public Markets are being properly cleaned or not. They are frustrated, I can understand that, I was only a very short while in the Opposition, for two years and ten months, until people found how wrong they were and I took advantage of putting all my papers in order but I appreciated then and I appreciate now how sad it must be for people to be there year after year, except for those who do not want power like Mr Bossano, how frustrated they must be to take second place.

MR SPEAKER:

Order, order.

HON CHIEF MINISTER:

How frustrated they must be, to take second place, not to be invited to some places, invited to others. I can understand that and then of course they have their compensation, they can talk in the clubs and undermine the Government, they can spread rumours that we are not doing our work, that things are coming to a very bad end, I can understand that. I can understand that when the House meets they have to make some thunder to justify their existence and that, I think, is the real reason for this motion. Mr Speaker, the reason of course is another bigger one, bigger than all that. The reason is that we have built a station which is going to be the pride not only of Gibraltar but which the manufacturers think is a showpiece for people to come from outside to see the station. As soon as possible the people of Gibraltar are going to be given the chance to go through it and to appreciate what has been done not only for the people but I also hope it will be appreciated, for the people who are going to work there and produce the electricity. It is true, of course, it is true, that apart from anything else whoever decided in 1894 or 1895 to put the Power Station in King's Bastion

HON P J ISOLA:

Wasn't it the Chief Minister?

HON CHIEF MINISTER:

I was not around then, Mr Speaker, but I may be at the end of this century, you know, and we may have to have another part of the Mole to extend it. Do not under-rate my powers of endurance. Those, I think, are proved by history but it is true that what they really are annoyed about, well, not annoyed, I do not think annoyed is the right word, I do not think it is the elegant word to use, they cannot be annoyed, they must be resentful that it has been this Government that despite all the difficulties, despite all the litany of concern repeatedly made by Mr Restano, we were elected again and it has given us the opportunity to build a Power Station which is going to be the pride of Gibraltar for many years to come and which is planned in such a way that can provide for the future development of Gibraltar as we all want it, a Gibraltar which is prosperous and requires considerable amount of energy and that will be supplied in conditions which are acceptable, to some extent ideal, and certainly whatever may happen in the future and I hope the future will be a bright one in respect of industrial relations at the Power Station, no one will be able to say that industrial relations were bad at the new Power Station because conditions were bad as they were at King's Bastion. At King's Bastion Power Station the proximity, the closeness, the nature of it, has of course been one factor which has exacerbated the situation many times, there is no doubt about it. Therefore to some extent some of the problems may be attributed to that apart from other attitudes which in fact we hope have been left behind but certainly no one will be able to say that the best conditions possible have not been provided to provide proper energy to Gibraltar for now and for a long time to come because it is liable to be extended, but also to provide adequate, suitable, reasonable, human and happy conditions for the workforce to work better for the better future of Gibraltar and for all concerned.

MR SPEAKER:

Well, I think we will now recess until 3.15 this afternoon when we will resume the debate.

The House recessed at 1.00 pm.

The House resumed at 3.25 pm.

HON A T LODDO:

Mr Speaker, two or three days ago, I was asked by a member of the public: "Why does the Opposition put in motions of censure particularly when you know the outcome of the motion? You know that the Government will defeat it by the majority they hold". My answer was that in bringing forward a motion of censure one did not bring a motion lightly. Much thought went into it and the motion had to be on something which was of great public concern. That the idea behind bringing a

motion, although we knew beforehand that the motion would be defeated, was to have a chance to air in public the question and to have the opportunity to tell the Government to its face what a lot of people in Gibraltar are saying behind their backs. It is necessary, Mr Speaker, once in a while, to be able to tell the Government to its face what people say behind their backs because obviously they have to be brought down to earth occasionally, they have to be made to face reality occasionally. If you are surrounded or if you surround yourself with people who always say yes and how good you are and how well everything goes, eventually, you could very well fall into the trap of actually believing it and you begin to lose touch with reality. Mr Speaker, that was the answer I gave this member of the public as to why, in my opinion, the Opposition in Gibraltar brought a motion of censure on the Government. Mr Speaker, I believe that there are not two sides to every story but three sides to every story. There is one side, the opposing side and the truth. The truth, Mr Speaker, always lies somewhere in between because no matter how honest one likes to be with oneself one can never in defending a position be objective, being human we must be subjective. And Mr Speaker, in trying to see the true side of the story, the Government was persuaded to set up a Committee of Enquiry and I would like to believe that the Committee of Enquiry came up with the truth, the truth of the whole sorry matter. Mr Speaker, if this is the truth of the matter and if I may be pardoned the pun, the City Electrical Engineer Department has come out in very poor light and the Government itself has fared very little better. Mr Speaker, the Opposition for years has been talking of lack of planning on the part of Government vis-a-vis the power generation. Certainly, since 1980, I can recall from first-hand experience and, Mr Speaker, the lack of planning on the part of the Government has been borne out by the findings of the Committee of Enquiry. I would say that Government in its reticence in making public the recommendations of the Preece, Cardew and Rider Report has declared itself guilty by implication. Mr Speaker, to the ordinary man in the street the advent of the skid generators was the interim solution to the power cuts. They would do away with the misery of the power cuts and, in fact, a Government Minister went so far as to say that, precisely that, and accused the Opposition of being niggardly, I suppose, although he did not use the word, because he said: "Here we have the Government doing something about Varyl Begg, here we have the Government doing something about the power situation by bringing in skid-mounted generators and there is the Opposition trying to blow it all away". Well, Mr Speaker, the man in the street in Gibraltar was so fed up with power cuts, so frustrated, that when he was told that he was to pay £11,500 a month for the skid-mounted generators he said: "Well, at least we will have no more power cuts". Well, Mr Speaker, not even with four skid-mounted generators and one trailer-mounted generator have the people of Gibraltar been free of power cuts. In fact, at one time not so many months ago, after a power cut, we were told that three of the four skid-mounted generators were out of commission. For the last four years we have been subjected

to power cuts and the imagination of the Government, Mr Speaker, must have been stretched to its uttermost limits to find excuses for their failure to provide an adequate and continuous power supply. Their powers of imagination must have been taxed to the maximum. We have had excuses that ranged from the ridiculous to the sublime and back again. We have had excuses on technical terms, crankshafts, cooling systems, but we have also had unexpected power demands because of the heavy leventer cloud and the latest one was the accidental tripping of a switch which apparently was accidentally tripped twice. Mr Speaker, who are we trying to kid? Rather, who is the Government trying to kid? This, Mr Speaker, is 1982 and even in parochial little Gibraltar people are educated enough and sophisticated enough not to be fobbed off with glib and feeble excuses. Mr Speaker, the new Power Station should have been ready in the winter of 1981/82 and now if we are lucky we will have to settle for 1982/83. What excuse can we get for that? Mr Speaker, it is very good for Government to ask the Opposition to forget the past, to forego acrimony, not to seek to apportion blame but instead to look to the future. Very comfortable. But in asking us to look to the future I would ask the Government what do they exactly mean by the future? Is the future tomorrow, or does the future mean a slightly longer term than that? We have had the Hon Minister, Dr Valarino, confirm that no agreement as to the manning of the new Generating Station is yet in existence. Mr Speaker, it is very good for the Government to ask us not to look back, not to apportion blame, but the way I read the Committee of Enquiry's Report, Mr Speaker, it quite rightly does apportion blame, it is very lavish in apportioning blame. And it blames who it must blame for the absolute shambles the City Electrical Engineer's Department finds itself today. A Department which I might well add was in City Council days a credit to the City and a source of pride to the Council. But when all is said and done, Mr Speaker, a ship is only as good as its Captain, a company only as good as its directors, an administration only as good as the Government and the Government in this case has been found to be sadly lacking. Mr Speaker, there were moments this morning when listening to the Minister, Dr Reggie Valarino, and listening to the Chief Minister, when my heart actually went out to them. They were defending an indefensible position, Mr Speaker, they were trying their best to waffle their way through. They were trying their best to cloud the issue and they did their damnest not to answer the points that were raised. Mr Speaker, I have had the opportunity of telling the Government to their face what a lot of people in Gibraltar are saying behind their backs. Whether they take heed of this, whether they believe it, this is entirely up to them. But before I sit down, Mr Speaker, I would like to air a little grievance which I think is a grievance which I am sure all Members of the House hold. Even the Government will have to agree with me. That in a matter of such importance as a motion of censure on such an important issue as the question of power generation, when the Government is under attack by Members of the Opposition and the Government is seeking to justify itself, that in airing it in public I think every Member of this House would have

been glad of a public in which one could air this matter in front of and it is a sorry case, Mr Speaker, I feel, that the public of Gibraltar is not more civically minded or more conscious of its responsibility and does not attend more frequently the meetings of this House. Perhaps, Mr Speaker, there is therefore a truth in the old adage that a people get the Government they deserve. Thank you, Mr Speaker.

MR SPEAKER:

As there appear to be no other contributors to the debate I will call on the Hon the Leader of the Opposition to reply.

HON P J ISOLA:

Mr Speaker, what a sorry performance we have seen today. I agree entirely with what my Hon Friend Mr Loddo has said when he has criticised the Government defence as being trying to defend what is indeed an indefensible position. I have never in my many years in the House heard a Chief Minister of Gibraltar answer on behalf of his Government in a way of avoiding all the issues put forward in the motion. I think in his heart of hearts he knows that there is no defence and I think what has worried him most about this motion of censure, and this was quite obvious to me as he spoke, is that the Opposition on this occasion have accused him, he has been put in the dock as Chief Minister as being responsible for the situation that has arisen in Gibraltar. I think he was hoping that our attack would be directed at the Minister for Municipal Services and that possibly at a convenient time he could move him on elsewhere and thus rid himself of any stigma relating to the poor Government performance on power generation. And he even reminded us that we had said in a press release that he should move the Minister for Municipal Services somewhere else. That is true, we did ask him to do that, but the proceedings in the House today have shown that the Chief Minister could not move the Minister for Municipal Services away from that Ministry without making him responsible for the situation that has arisen and how could he move a Minister from a position of responsibility when the real responsibility lay on his own shoulders and that probably explains, Mr Speaker, why the Hon Mr Zammit was moved off and the Hon Mr Perez was changed but the Hon Dr Valarino was left in post.

HON H J ZAMMITT:

If the Hon Member will give way. I think the Hon Member will realise that I did seven years in Housing not seven months, six months or ten months, seven whole years. I deserved the changed, Mr Speaker.

HON P J ISOLA:

But the Minister for Housing was saying in the election: "I did it and I am strong enough and I will go on doing it".

HON H J ZAMMITT:

I had the misfortune of suffering a nervous breakdown, I hope to God he never suffers one, Mr Speaker.

HON P J ISOLA:

But there we are, Mr Speaker, of course the Chief Minister could not move the Minister for Municipal Services, how could he when he had been controlling all the operations since 1979 from the office of the Chief Minister. He had been making the decisions, it was him who went out there and came back in October 31st and announced that he was going to make sure there was a 5 megawatt within eighteen months. The Chief Minister took a tremendous amount of trouble, not Hon Members, the Chief Minister took a tremendous amount of trouble to exculpate himself, not the Minister for Municipal Services but himself, he got out the record, the meticulous record of what he had done between April and September, 1982, and I have no doubt he gave a copy of that record to the press. He did not bring out the record of what he had done between 1979 or 1980 or 1981 when he had been making statements in the House, no, April, 1982, to September, 1982. But, Mr Speaker, by then the horse had bolted, it is no use shutting the door after the horse had gone. That particular paragraph in my motion of lack of proper provision for staffing at Waterport Power Station and any formal negotiations with the Trade Unions regarding conditions of employment or working practices came straight out of the Interim Report. That paragraph was censuring the conduct of the Government that with a Power Station already built they had not done the staffing at Waterport Power Station and they had not done any formal negotiations for the staffing of that Power Station. Not a word from the Chief Minister of what he did before April, 1982, only what he did afterwards. And why did he move with such panic between April and September, why did he see all these noble citizens who would not take the job and everything else? Because as a good politician since before 1950 he knew the damage that report would do him personally and the Government, of course, who always get elected with him. He knew and he said: "I better get a Chairman, I better get a Steering Committee going because otherwise I am going to find myself in a position with the Waterport Power Station which I want to show to the general public so that they can be proud of it but there will be nobody in it". But that is not a defence to the censure, Mr Speaker, that is the defence of the Chief Minister of his own actions once he was told by a Committee, five years after the problem arose, he was told that was wrong. He then rushed in panic, it was not the work of an orderly Government listening to him and listening to that, it was the work of a panic stricken Chief Minister. "Get on the telex, get on the telephone, tell Mr Pitaluga in London to ring so and so and so and so, because we have been told we were about to open a Power Station and we do not even know how it is going to be staffed". No defence from the Chief Minister on that, no justification of the Government position, just a defence to save his own skin. And he has the

nerve to tell me that I was only a Minister as a result of a coalition. Well, can I remind him how did he become Chief Member in 1964 under the Lansdowne Constitution? It was not because he had a majority in the House, it was as the result of a coalition with an independent. That is how he became Chief Member. And how was he Chief Member before that date? On the same basis of pacts, negotiations and dealings. I can see that as from 1972 he has become Chief Minister because he has had seven more elected with him because by then he realised that there were no more deals with anybody and he had to get the majority. Let him be careful in what he says because we also have our records. He said I know how the Government works. Of course I know and I know in particular how he works as Chief Minister because I have worked with him.

HON CHIEF MINISTER:

And I know how you work.

MR SPEAKER:

Order.

HON P J ISOLA:

And he comes along, Mr Speaker, and spends 50 minutes of his speech telling us what he did after the April, 1982, report. He does not tell us what he did before then because whatever was done before then was condemned in the report and that would not do his image any good as Chief Minister. He criticises the Opposition for not cooperating with the Committee. We wanted a report that looked into the past. Were we consulted on the terms of reference? No. Why should we cooperate, why should he decide every time what he wants and expects the Opposition to dance to his tune? That is one of the things that annoys him. The Hon Mr Bossano does dance to his tune from time to time after a deal or pact or something else that goes on behind the scenes that we do not know about. But it upsets him that the Opposition, the DPBG Opposition, does not dance to his tune. We cooperate when he is right, we are responsible in that, we have a bi-partisan approach to Foreign Affairs. In matters that are essential and vital to Gibraltar we cooperate, but we are not going to dance to his tune no matter how threatening he becomes, no matter what he says or does. We are an Opposition, we are a political party with principles and ideals that we will put forward and will continue to fight for but in this debate, Mr Speaker, in the debate of censure, we have heard no defence of the Government position. All he could tell us is: "Look to the future, the people of Gibraltar are going to have a look at the new Power Station almost as if it is going to be a tourist attraction". Well, if I was a citizen of Gibraltar I would go to the Power Station in the same way as I would have come to the debate today. I would go and see for myself how

their money has been spent and see for myself what it would have cost if that Power Station had been constructed when Preece, Cardew and Rider decided that it should be constructed. But all these things are conveniently forgotten, Mr Speaker, like the new Girls' Comprehensive School. The decision to build was made in 1972, and it opened late in September, 1982. Of course, if you are long enough in Government, of course, you can point to achievements. The new Power Station; forget the past, there it is, isn't it beautiful. But I hope, Mr Speaker, I hope the Chief Minister is right when he says: "Of course the Opposition are bringing this motion because this will be the last time they will be able to say anything about power". I hope he is right. I was hoping that the Hon Mr Bossano would have contributed to this debate and told us a little more, at some more length, as to why he has not voted in favour of Mr Edwards' salary.

HON J BOSSANO:

If the Hon Member will give way.

HON P J ISOLA:

I do not know whether I should but I will.

HON J BOSSANO:

I am trying to satisfy his curiosity, Mr Speaker. If he wants he can give way but he does not have to. I am assuming, Mr Speaker, that the Hon Member is censuring the Government and not me because sometimes it is difficult to distinguish the difference.

HON P J ISOLA:

Sometimes it is difficult to distinguish the difference between the Hon Member and the Government.

HON J BOSSANO:

That may well be so, Mr Speaker, just like sometimes it is difficult to distinguish between the Hon Member and the Government on many other issues where I disagree with both of them. It is clear to me that there are issues where I agree with the policy of the Government and there are issues where I agree with the Hon and Learned the Leader of the Opposition and the Hon and Learned Leader of the Opposition thinks that I should agree only and exclusively with him and if I did I would belong to his Party - but I do not, Mr Speaker. That is why I cannot agree with him all the time and I hope that although it may be difficult with his style of politics to be as fair to other people as he would like other people to be to him, that he will accept that I have the right to disagree with both the Government and the DPEG on occasions and to agree with one or the other on different occasions and I

also hope he will agree that I am not the elected representative of the Transport and General Workers Union in the House of Assembly which he seems constantly to forget and, therefore, the vote that I cast on any issue in this House represents the view of the Gibraltar Socialist Labour Party not of the Trade Union Movement and not of the Transport and General Workers Union and consequently if he wants an explanation as to why I voted against the expenditure of public money in bringing a Chairman for the Steering Committee from UK, there is no more sinister reason to that than there is to my voting against the expenditure of public money in the same supplementary estimates for a number of consultancies from UK. My Party does not agree with spending public money in bringing experts from UK to do things which we think we can do ourselves and where the expertise already exists in Gibraltar and it is no reflection on the attitude of the Trade Union Movement to the Steering Committee because in fact I am a member of the Steering Committee as a Union Official but I do not think I have the right to bring my professional interest in my employment into a debate which is a political debate and therefore I am not entitled, as I see it, Mr Speaker, to divulge in the House the way the Steering Committee is handling the affairs of the future of the Generating Station because I am not there as a political representative of the GSLP, I am there because I am a paid employee of the Transport and General Workers Union and I would imagine the Hon Member would think it was wrong if he as a lawyer decided to use the House of Assembly to bring out the affairs of his clients. He says: "Absolutely". Well, then he must expect me to do the same. I do not say to him when he votes on any particular piece of legislation that he is doing it to protect his clients' interests rather than to defend the policy of the DPEG. But he does it to me every time when he connects my political functions in this House with the interests of the Union Movement. The Trade Union Movement is quite capable of defending itself, Mr Speaker. It is very powerful, as the Hon Member will no doubt find out if he ever gets to Government and then he may have to revise a lot of his ideas and no doubt he will realise that the way to achieve results is by.....

HON A T LODDO:

Bending over backwards.

HON J BOSSANO:

My colleagues in the Opposition cannot seem to make up their minds, Mr Speaker, whether it is I who dances to the Chief Minister's tune which is the remark I heard when I just arrived, or the Chief Minister who dances to my tune.

HON P J ISOLA:

We suspect.

HON J BOSSANO:

What do you suspect, we both dance to your tune, is that it? That, I think, is stretching the situation.

HON P J ISOLA:

I have given way, Mr Speaker, so perhaps the Hon Member could finish.

HON J BOSSANO:

I think that has cleared the point. Mr Speaker, in fact, I have been involved in work connected with the Generating Station and that is why I have arrived late but I won't go into that because that really has nothing to do with the debate. But since I have been given this opportunity through the graciousness of the Hon and Learned Leader of the Opposition who has kindly given way to give me the chance to speak, I would say that I do not accept that industrial relations in the Generating Station are worse than they are in any other sector.

HON P J ISOLA:

I think I have given way to explain why he voted but not to make a speech.

HON J BOSSANO:

Well, I do not mind, Mr Speaker, I thought it might help the Hon Member in his winding up.

HON P J ISOLA:

The Hon Member is very clear about the rules of the House and he must realise that his public duties must surely come first and we were sitting at 3.15, Mr Speaker, and you very kindly sat there quietly for a considerable number of minutes to see if any other Hon Member wanted to speak. It is not our fault that the Hon Member cannot be here on time but I am now closing the debate.

HON J BOSSANO:

It is not my fault that no other Member has spoken either.

HON P J ISOLA:

I know it is not the Hon Member's fault.

MR SPEAKER:

Order. Let us come back to the debate.

HON P J ISOLA:

I gave way so that the Hon Member could explain why he voted against and the explanation he has given has been a lengthy one but let me tell him a couple of things on what he has said. First of all, what I said was that we in the DPEG were not prepared to dance to the Chief Minister's tune. I do not think I said anything about the Hon Member dancing to the Chief Minister's tune. It is not for us in the Opposition to make a judgement as to whether the Hon Member dances to the Chief Minister's tune or whether the Chief Minister dances to the Hon Member's tune. We do not have enough evidence, Mr Speaker, we do not have enough evidence to make a judgement on the matter. We suspect there is a bit of it on both sides, judging from the way things happen in Gibraltar but that is just a statement that we make. But as to why the Hon Member voted, and I gave way on that point, and unfortunately the Hon Member was not here when I started talking but the Hon Member when I said that should have let me go on a bit before he actually intervened. When I was saying that I said that I was not very happy that it was not the last time that we were going to bring this matter up because of the fact that the Hon Member had voted against the money. The Hon Member is I believe I think much too modest when he tells us in the House that he is just here as a member of the Gibraltar Socialist Labour Party. I do not think anybody believes it. We know he is here as a member of the Gibraltar Socialist Labour Party, we know that, but we all know the power and influence that the Hon Member wields in the Trade Union Movement. And the Hon Members opposite know that only too well and that is why they are so deferential to the Hon Member, properly so, and I like to think that we are deferential to him on proper occasions although we do not necessarily agree with him as much as the Hon Members opposite. I hope he will accept that as being genuine. We are not against the Hon Member every time he speaks, no, the trouble is that if he speaks against us of course we are against it. And when the Hon and Learned the Chief Minister said during the course of this debate that we were a right wing party and that he had heard us say that we wanted to get rid of Bossano. We do want to get rid of Mr Bossano, we want to get rid of the Chief Minister, too, and the Members opposite. What are we a political party for? We are a political party and want to win an election. The Hon and Learned the Chief Minister opposite thinks that because he was here in 1894 he must be here at the end of the century, Mr Speaker, and it may be, it may be that he will be here at the end of the century and I only hope that the state of health of his successor is good so that he can succeed him at the end of the century, I hope he will have patience in that. But, Mr Speaker, when I said trying to get rid of the Hon Member I hope the Hon Member does not interpret the Chief Minister's remarks as bumping him off, when we say we want to get rid of him we are talking in political terms, that we will defeat them electorally in an election. Perhaps I should make myself clear. The Chief Minister - I have noticed this - whenever he has no argument and no real defence, he replies with

insinuations and then he - and this he is very good at - he immediately says: "You are a Right Wing Party" - that is terrible in Gibraltar - "You are a Right Wing Party and I am Left Wing. I am the Gibraltar Labour Party", heading the most successful legal practice in Gibraltar. No, no, don't get me wrong.

HON CHIEF MINISTER:

You had better apologise for that. You have made an insinuation and if you do not I shall have to say something very serious against you.

HON P J ISOLA:

I apologise, Mr Speaker, if it is taken in a way that it was not intended.

MR SPEAKER:

Order, order.

HON P J ISOLA:

Let me explain, Mr Speaker, let me explain. The political colour of our Party is always because Peter Isola is a lawyer, Right wing. He has got lots of clients - Right wing. Bob Peliza is a businessman. Well, I was starting to say that a lot of Members on the other side are business people. Why should people be told that you are Right wing because of your profession or of your business?

HON CHIEF MINISTER:

If the Hon Member will give way. I have heard the Hon Member speak in an interview on television saying: "I am of the Conservative traditional party, I am a rightwinger". If he has forgotten that because it has suited him to change his shirt in order to be able to be near power that is a matter for him. Everybody knows he has always been a conservative, everybody knows he was not an integrationist until it was required and everybody knows he followed on Mr Xiberras on the DPEG. He has been changing his thoughts all the time.

HON P J ISOLA:

Mr Speaker, we are talking of a Right wing party as opposed to a Right wing leader. I do have conservative tendencies but you see what the Chief Minister never appreciates is that in our party we have them all but we are not a Right wing party, the Leader may be Right wing and another gentleman, and then we have Left wingers on either side.

HON A J CANEPA:

Alianza Popular.

MR SPEAKER:

Order. We will not speak across the floor. I will not have these interruptions.

HON P J ISOLA:

But that is what is done by the Government at any time. You see, right at the back of their minds, right at the back of their minds, they know what an awful mess the Generating Station has been. They know that the allegations made in the motion are true, they know it, Mr Speaker. That is why they have put no defence to the criticism of lack of planning and foresight, no defence to that because they know that the decision to buy a 5 megawatt generator, I do not know how many million pounds that cost, was made in the Lobby of the House as a result of pressure of the Opposition, by the Chief Minister on the 31st of October, 1979. How can that be the result of planning and foresight? They know that the decision to build a new station and to have 10 megawatts resulted from the power cuts that Gibraltar was subjected to immediately after the elections. They know and only they can know how much it cost the people of Gibraltar to keep that Generating Station going and power supply to the people of Gibraltar during Christmas in the run-up of the elections of 1980. They know, we do not know, but they know it because immediately after the election we had all the breakdowns again and power cuts. That is true, that is a fact. The Chief Minister laughs but those are facts. They know that they had to have two 5 megawatts engines, they know that the Chief Minister said in March in this House, March 1980, just after he had said a month before in the inauguration of the House that we would have a new generator within 18 months of that meeting, they know that there they said if it is not 18 months it will be two years and at the very most 2½ years and it has been three. They know that. Mr Speaker, if there had been planning and foresight would all these irresponsible statements have been made, statements made just to shut us up, statements made just to make the public feel that everything would be alright, do not worry, and nothing was alright. Nothing was alright. The power cuts have continued into 1982. Does the Chief Minister seriously think that if he had told the electorate in 1980: "Look here, prepare for power cuts right into 1982 because I have not done my homework and I have done no planning and I am sorry but that is how it is", does he think that he would have got back? He lost 2,000 votes. Would it have been only 2,000 if he had told the people that instead of telling them: "I have said there is going to be a Power Station and it will all be over soon. This is temporary, it could not be helped". And the Chief Minister knows that so he answered the debate by calling us a Right wing Party and telling the House what he did after

April, 1982. He could not be criticised, he ran around Gibraltar and England very fast to get a Chairman for the Steering Committee. And I go back to the point I made to the Hon Member that I was not so sure, it would be the last time we took the subject up because he had voted against the money and that to me meant perhaps that things in the Steering Committee are not going too well when the Hon Member says that. The fact that I said that does not mean that I was accusing the Hon Member of being a Trade Union member. What I meant was that the fact that such a prominent Member of this House who wields such powers certainly outside the House, that he should vote against the salary of the new Chairman of the Steering Committee did not to me seem to augur well for the negotiations that are presently carrying on. Mr Speaker, I put this question to the Government, actually I cannot put it because it is too late now but consider this position. Because the Government did not make proper arrangements for the staffing of the new Waterport Power Station and because Government did not commence any formal negotiations with the Trade Unions until they were told by an urgent interim report: "For God's sake do something about it, you are going to have your Power Station to operate without any staffing arrangements", because of that, what is it going to cost the people of Gibraltar to get that Power Station moving as soon as it is handed over? What are the concessions that management will have to make as a result of the time it has taken the Government to get the thing going? None, says the Chief Minister, none. When that Power Station is ready to be delivered and my Friend on my left says: "Well, I am sorry, unless you guarantee a, b, c, d, e I am not doing anything there". What is Government going to do? I know what they are going to do, they are going to agree and all this extra expense - perhaps that is why the Hon Member voted against the sum of £31,000 - all this extra expenses will be more and more and more public monies thrown down the drain to justify the Government's position and to enable the Chief Minister to let the public see this wonderful new Waterport Power Station which has cost them two or three times more than it should have done if there had been proper planning and the works had been executed on the right date. Mr Speaker, I have very little to answer with. As far as the Minister for Municipal Services is concerned I have to express my sympathy with him. He got up, he gave his reasons, he did not really reply to the allegations, he just gave his reasons. I thought he was quite contrite. I think he was basically saying: "I think you chaps are right but this is all I can say. We acted as best we could in the circumstances". But not the Chief Minister. The Chief Minister said: "It is my neck that is on the block here", so off he goes to tell us everything he did since April, 1982. He did not tell us anything of what he was doing before then when he was telling everybody all the wonderful plans he had for Gibraltar. Mr Speaker, the motion has not been defended by the Government. It is very significant that on such an important issue involving £7m of development funds, of public funds, that the Minister for Economic Development who is always so quick to explain everything, on this occasion has kept very, very silent. And the

Minister for Public Works who presumably is going to take delivery of the Power Station has also kept very, very silent. I think, Mr Speaker, that back there, in the Chief Minister's office, over a cup of tea, they all sat round and looked at this motion and they said: "How can we get rid of this as quickly as possible?" And they said: "How can we get past this one?" And they said: "The best thing is not to make a song and dance about it. You, Minister for Municipal Services you give a statement, have it prepared, let me see it before you deliver it", and the Chief Minister said: "I will get up and make a little bit of an attack here and a bit of an attack there. I will say what I did in April, I will tell everybody that the public are going to see the Waterport Power Station, they are going to be delighted with it, and that is it and nobody else will talk, eh, nobody else will talk. Whatever the provocation, don't talk, keep quiet". And that is what happened. We had no contribution from the Minister for Economic Development who I am sure would have had a very useful role to perform in telling us all about the building, whether the foundations were alright and things like that, and also the Minister for Public Works. But nothing. Cut it dead, let us forget it. I do not know whether the Hon Member, Mr Bossano, was approached to stay away until the debate was over. Mr Speaker, I do not know any of these things but what I do know is that I have to commiserate with my Hon Friend Mr Restano who when I heard him talking in a very powerful speech at the end, I really thought that he was convincing the Government to abstain on this motion. But, of course, the Chief Minister has been there since 1894, I have been here since 1956. Isn't it interesting, I must make that observation about the mistake that was made in 1894? It was not him so that was a mistake. So, Mr Speaker, has the Chief Minister reflected on the fact that in 1894, if my history is correct, the waters were actually up to the City walls so the poor guys who put the engines in there could not have gone much further out without dropping into the sea?

HON CHIEF MINISTER:

You are wrong, it was not there in 1894.

HON P J ISOLA:

Who was not there?

HON CHIEF MINISTER:

The water was not there.

HON P J ISOLA:

Anyway, Mr Speaker, the motion of censure is not on the 1894 group it is on the 1982 persons and, as I said, I am sorry that they won't follow the Hon Mr Restano's advice but I

think I can say that the Opposition in this motion have put forward irrefutable arguments. They have not been replied to and now I am going to do what the Chief Minister wanted to occur, that the debate should be got out of the way as quickly as possible. Mr Speaker, I commend the motion to the House.

MR SPEAKER:

Before I put the question to the House I would like to find out from Hon Members whether they are happy to vote on the motion as it stands without any division.

HON J BOSSANO:

Mr Speaker, I would like, if possible, the vote to be taken on the different items.

MR SPEAKER:

I am prepared to divide the motion into two. One which is going to be the general vote of censure which is the motion as it reads up to the figures 1976 and one the way in which it has been presented, which is the reasons particularising the censure. In this way Members will have the opportunity to vote for the general motion and for the particularised motion. I do not think I am entitled to sub-divide the reasons.

HON J BOSSANO:

Mr Speaker, the only thing I would like to say if you will permit me, is that there are statements contained here, for example, that the House has been misled and the Opposition and the public as to the true state of industrial relations which I do not think necessarily follows from the censure of the Government, the lack of planning, the lack of provision of staffing, or anything else. To me it seems a specific and separate issue with which I am in total disagreement.

MR SPEAKER:

Precisely. That might lead you to either vote for, against or abstain.

HON J BOSSANO:

Well, I support four out of the six things there.

MR SPEAKER:

I will quote from Erskine May on the question of sub-dividing motions. Here we are: "Complicated questions. The ancient rule that when a complicated question is proposed to the House,

the House may order such question to be divided, has been variously interpreted at different periods. Originally the division of such a question appears to have required an order of the House, and in 1770 a motion 'That it is the rule of this House, that a complicated question which prevents any Member from giving his free assent or dissent to any part thereof ought, if required, to be divided', is negatived on a division. As late as 1833 it was generally held that an individual Member had no right to insist upon the division of a complicated question. In 1838, however, the Speaker ruled that two propositions which were then before the House in one motion could be taken separately if any Member objected to their being taken together. Although this ruling does not appear to have been based on any previous decision, it has since remained unchallenged. A complicated question can, however, only be divided if each part is capable of standing on its own". That is why I felt that this motion is, I think, capable of being sub-divided into two and both can stand on their own but we must not go beyond that.

HON J BOSSANO:

Mr Speaker, there are two parts to which I am making reference. One is that the House, the Opposition and the public has been misled about the true state of industrial relations. The next item says that until the Committee of Enquiry Report was produced there had been a lack of adequate consultative machinery. I do not think that either of those two items either exonerates the censure of the Government's lack of planning and handling of the situation or is derived from it. To me they are a separate issue and I disagree with those two points and agree with the rest of the motion.

MR SPEAKER:

That is why by sub-dividing the motion you are being given an opportunity to vote to a general motion of censure but not to the particularised one, but we must not sub-divide the second one. I will put the first part of the question as moved by the Hon the Leader of the Opposition which reads: "That this House censures the Government of Gibraltar for the manner in which it has handled the power situation in Gibraltar since 1976". May I say that since this is most clearly a vote of censure on the Government, in compliance with the proviso to Section 44(1) of the Constitution, the ex-officio Members do not vote.

On a division being taken the following Hon Members voted in favour:

The Hon J Bossano
The Hon A J Haynes
The Hon P J Isola
The Hon A T Loddo
The Hon Major R J Peliza
The Hon G T Restano
The Hon W T Scott

The following Hon Members voted against:

The Hon I Abecasis
The Hon A J Canepa
The Hon M K Featherstone
The Hon Sir Joshua Hassan
The Hon J B Perez
The Hon Dr R G Valarino
The Hon H J Zammit

The following Hon Member was absent from the Chamber:

The Hon Major F J Dellipiani

There being an equality of votes for and against Mr Speaker declared the motion lost.

Mr Speaker then put the question in the terms of the second part of the motion which read as follows:

"This House censures the Government of Gibraltar in particular for:

1. Lack of planning and foresight in providing for an adequate and continuous power supply to the community,
2. Lack of proper provision for staffing of Waterport Power Station and any formal negotiation with the Trade Unions regarding conditions of employment or working practices,
3. The manner in which it has in this House misled the Opposition and the public as to the true state of industrial relations in the Generating Station,
4. The lack, until a Report of the Committee of Enquiry was submitted, of adequate consultative machinery,
5. Its failure to make public the Preece, Cardew and Rider Report and thus allow the public to appreciate more fully the power requirements for Gibraltar for the rest of this century,
6. The haphazard manner in which it has dealt with the serious power generation problems of Gibraltar for the last five years".

On a division being taken the following Hon Members voted in favour:

The Hon A J Haynes
The Hon P J Isola
The Hon A T Loedo
The Hon Major R J Peliza
The Hon G T Restano
The Hon W T Scott

The following Hon Members voted against:

The Hon I Abecasis
The Hon A J Canepa
The Hon M K Featherstone
The Hon Sir Joshua Hassan
The Hon J B Perez
The Hon Dr R G Valarino
The Hon H J Zammit

The following Hon Member abstained:

The Hon J Bossano

The following Hon Member was absent from the Chamber:

The Hon Major F J Dellipiani

The motion was accordingly defeated.

ADJOURNMENT

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

Mr Speaker put the question which was resolved in the affirmative and the House adjourned sine die.

The adjournment of the House sine die was taken at 4.25 pm on Thursday the 14th October, 1982.