

GIBRALTAR

HOUSE OF ASSEMBLY



HANSARD

6 July 1982

REPORT OF THE PROCEEDINGS OF THE HOUSE OF ASSEMBLY

The Eleventh Meeting of the First Session of the Fourth House of Assembly held in the Assembly Chamber on Tuesday 6th July, 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 Housing and Sport
The Hon Major F J Dellipiani ED - Minister for Education and Labour and Social Security
The Hon Dr R G Valarino - Minister for Municipal Services
The Hon J B Perez - Minister for Medical and Health Services
The Hon D Hull QC - Attorney-General
The Hon R J Wallace CMG, OBE - Financial and Development Secretary

OPPOSITION:

The Hon P J Isola OBE - 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 I Abecasis - Minister for Tourism and Postal Services

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 17th March, 1982, having been previously circulated, were taken as read and confirmed.

DOCUMENTS LAID

The Hon the Minister for Housing and Sport laid on the table the following document:

The 1981 Tourist Survey Report

Ordered to lie.

The Hon the Minister for Education and Labour and Social Security laid on the table the following documents:

- (1) The Employment Survey Report - October, 1981.
- (2) The Accounts of the John Mackintosh Hall for the year ended 31st March, 1982.

Ordered to lie.

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

- (1) Supplementary Estimates Consolidated Fund (No 1 of 1982/83).
- (2) Supplementary Estimates Improvement and Development Fund (No 1 of 1982/83).
- (3) Statement of Consolidated Fund Re-Allocations approved by the Financial and Development Secretary (No 7 of 1981/82).
- (4) Statement of Consolidated Fund Re-Allocations approved by the Financial and Development Secretary (No 8 of 1981/82).
- (5) Statement of Improvement and Development Fund Re-Allocations approved by the Financial and Development Secretary (No 5 of 1981/82).
- (6) Statement of Consolidated Fund Re-Allocations approved by the Financial and Development Secretary (No 1 of 1982/83).
- (7) Supplementary Agreement between the Government of Gibraltar and Lloyds Bank International Limited.
- (8) Treasury Minute on the Second Report of the First Session (1980) of the Public Accounts Committee.
- (9) The Accounts of the Government of Gibraltar for the year ended 31st March, 1981, together with the Report of the Principal Auditor thereon.

Ordered to lie.

ANSWERS TO QUESTIONS

The House recessed at 1.05 pm.

The House resumed at 3.25 pm.

Answers to Questions continued.

The House recessed at 5.35 pm.

The House resumed at 5.55 pm.

THE ORDER OF THE DAY

MR SPEAKER:

The Hon the Chief Minister, the Hon the Minister for Public Works and the Hon the Minister for Municipal Services have given notice that they wish to make statements. I will now call on the Hon the Chief Minister.

HON CHIEF MINISTER:

Mr Speaker, as you are aware it is the established practice for me to make an annual statement in this House on the affairs of the Gibraltar Regiment.

During the course of supplementary questions which followed the last statement, the House referred to HMS Calpe, the local unit of Her Majesty's Royal Naval Reserve, and it was suggested that it would be of great satisfaction to the people of Gibraltar to learn of the good work that is being done by this unit.

I undertook to enquire from the Naval authorities whether a yearly report on HMS Calpe's activities could be made available to me so that I, in turn, could inform the House. This has been agreed.

It gives me very great pleasure therefore to be able to report on HMS Calpe's activities in 1981.

Mr Speaker, HMS Calpe provides essential personnel to man the Maritime Headquarters and the Port Headquarters in Gibraltar in times of tension or war. Their training is geared to these tasks and I am informed that they produced good results in the three major exercises in which HMS Calpe participated during the year under review.

Locally, Officers and Ratings manned the Maritime Headquarters for Exercise 'Test Gate' and Exercise 'Wintex 1981'. The former is an annual live exercise in which ships and aircraft test the NATO maritime forces defence of the Straits of Gibraltar and the latter is a 'Command Post' or 'Paper' Exercise designed to test NATO plans and preparedness.

In addition to these two exercises, HMS Calpe provided a total of 19 Ratings to help man three Maritime Headquarters in the United Kingdom during Exercise 'Ocean Safari'.

Several officers also attended the Royal Naval Equipment Exhibition which was held in Portsmouth, and they acted as escort/liaison officers and interpreters.

As is customary, professional training at various Royal Naval Establishments was provided throughout 1981 and fourteen officers and twelve ratings attended courses in the United Kingdom. Six officers attended Naval Control of Shipping courses and three a course for divisional officers. Other courses included WRNR rating courses, leadership training and staff acquaint courses. For the first time ever a Naval Control of Shipping Training weekend was organised locally and ten officers and twelve ratings participated.

Mr Speaker, the House will be pleased to learn that the Officer cadre of the Unit continues to increase. Three candidates who attended the Officer Selection Board at HMS Sultan in Gosport were successful. They are now Third Officer Amalin Ferro and Sub-Lieutenants Brian Cardona and Leo Victory. I am sure this House would like to join me in offering them our congratulations.

As the Unit grows older so do their members and Lieutenant-Commander Hardy was awarded the Reserve Decoration and three Ratings, Communicator Felix Acolina, Petty Officer Elio Apap and Leading Communicator Joseph Finlayson also had their long service recognised by the award of the Long Service and Good Conduct Medal.

In June HMS Calpe passed a good annual inspection. The Unit was also inspected at Divisions by His Excellency the Governor, during a visit to HMS Calpe, and he later met personnel at their training classes. The Unit was also visited by the Chief Staff Officer Reserves Captain Fry and other Staff Officers of the Commander-in-Chief Naval Home Command.

At the end of 1981 the membership stood at eighteen Officers and ninety-eight Ratings leaving a shortfall on peacetime complement of two Officers and seventeen ratings.

Mr Speaker, in conclusion, I am sure all Members of this House will join me in congratulating Commander Nassias, who will be retiring at the end of this year, and all members of HMS Calpe on a job well done. We wish them all the very best in their future endeavours.

HON MAJOR R J PELIZA:

Mr Speaker, I would like to thank the Chief Minister for so promptly getting this report on HMS Calpe. I think we in Gibraltar feel very proud that we have Gibraltarian volunteers serving with the senior service which have proved themselves to be still ruling the waves so recently in the Falklands and we wish them well in their future endeavours. They obviously have done extremely well by what we see in the report and we are looking forward to hearing similar good reports from them from year to year.

MR SPEAKER:

I will now call on the Minister for Public Works.

HON M K FEATHERSTONE:

Sir, I feel the House will be interested to know details of the water undertaking for the year 1981/82.

Stocks of water at 31 March, 1982, gave a gross figure of 43,439 metric tons, a slight improvement over the March, 1981, figure which was 41,077.

The total production for 1981/82 was 695,639 metric tons and this was made up from various sources as I will be stating.

Rainfall in a year in which the rainfall was somewhat less than average, produced 45,186 metric tons or 6.5% of our total production. Even in a year of above average rainfall, the production from this source would not be more than 10% of the required total, and it will be for consideration in the not too distant future whether the capital expenditure required to keep the Catchments in an adequate condition will be justified.

The wells produced 102,624 cubic metres which was 14.7% of total production. It will be appreciated that production from the wells will vary depending on the rainfall over the previous year or so. Importation provided 38% of our total production and of this 2.8% was from UK sources at very high cost. The balance was obtained from sources closer to hand. The distillers produced 39.3% of our requirements, 24.9% being obtained from the North Face Distiller and 14.4% from the VTE. To make up 100% total there is a small balance of 1.3% which was water borrowed from PSA and this is repaid in kind.

The total amount of water supplied over the year was 684,011 cubic metres of which 28,158 went to shipping and the balance to local consumers. The total billed was 623,447.

If one does a calculation of deducting the total billed from the total supplied and dividing the resulting figure by the total supplied, the percentage loss for the year is obtained. I will not strain Members of the House by requesting that they do this calculation. The resulting figure is 0.55%.

I feel that the House will join me in congratulating the Water Engineers in reducing losses to so low a figure. This has been achieved by a long term and concerted effort on the part of the Water staff in effecting night tests. As can be seen from the frequent advertisements in the press that the water supply will be cut off in certain districts between 11.30 pm to 6.00 am, these tests are being effected in all areas on a very frequent basis. They must, of course, be paid for by overtime payments but I feel the House will agree with me that this is money very well spent.

The previous year's losses were about 15%, so the saving on last year's losses was around 40,000 tonnes which at the marginal rate for water has a value of some £120,000. This saving is indeed a very satisfactory figure and I can assure the House that it will continue to be the aim and endeavour of my Water Department to attempt to contain losses to this year's present happy figure.

HON G T RESTANO:

Mr Speaker, we welcome the reduction in the losses and join the Minister in congratulating the staff of the Water Department. One question I would like to ask is, in reducing these losses have the areas been identified where in the past greater amounts of losses were incurred?

HON M K FEATHERSTONE:

I think, Sir, as soon as an area of loss is identified efforts are made to contain that loss forthwith by actually seeing where the leak is and getting the pipes repaired. I would be able to supply the Hon Member with a breakdown of the areas if he so requires.

HON G T RESTANO:

Is it, for example, underground pipes?

HON M K FEATHERSTONE:

Yes, it is usually underground pipes that are faulty and starting to leak.

MR SPEAKER:

I will now call on the Minister for Municipal Services.

HON DR R G VALARINO:

Sir, on 1 October, 1982, International Direct Dialling and local call charging will be introduced to Gibraltar; concurrently with this, the Telephone Exchange capacity is being increased by a net 2,000 lines and will cater for a maximum of 10,000 subscribers.

The tariff structure of local call metering will be as follows:-

There will be three different rates:

Peak rate - 9 am to 1 pm Monday to Friday

Standard rate - 8 am to 9 am and 1 pm to 6 pm
Monday to Friday

Cheap rate - 6 pm to 8 am Monday to Friday
and throughout the weekend.

For charging purposes all calls will be metered in units of 4p each, the time allowed for each unit during the different rates will be:-

Peak rate - 2 minutes

Standard rate - 3 minutes

Cheap rate - 9 minutes

Government has also decided that on the implementation of IDD a free call allowances of 120 units per quarter for each exchange line will be allowed. No increase in rentals, either for business or residential subscribers, has taken place this year. But it is envisaged that once Government has the experience and knowledge gained in the six months up to the end of the current financial year it will be in a better position to make changes to rental patterns and free call allowances to both residential and business subscribers.

Before local charging and international direct dialling are introduced details of the schemes will be given wide publicity in all news media.

In the United Kingdom the unit charge is 4.3p, exclusive of VAT - in fact, if I may have the leave of the House, there is an article today in The Telegraph which has risen this to 4.5p per unit exclusive of VAT, once again - which raises the unit to almost 5p, and the time allowed per unit charge was reduced on 4 March, 1981, from:

Peak rate 2 minutes to 1½ minutes

Standard rate - 3 minutes to 2 minutes

Cheap rate - 9 minutes to 8 minutes

To take an example: the new arrangements will mean that, including the free call allowance of 120 units per quarter, the average residential subscriber's bill would increase by £2.40 per quarter, assuming that two calls are made daily at the standard or cheap rates. It is obvious that, for the same amount, a residential subscriber will be able substantially to increase the duration of his calls if the calls are made during the cheap rate period.

International direct dialling will start to about 75 countries, excluding Morocco which will probably not have the facilities until 1983 or 1984 but it is hoped that direct dialling to and from Spain will be possible early next year. The six Charge Bands will be retained and the rate per minute will be reduced for direct dialling from existing operator rates. At present a minimum of 3 minutes is charged for operator assisted calls, but with international direct dialling there will not be a minimum period of charge. Furthermore a year after IDD the possibility of introducing a cheap rate for the international service will be looked at jointly with Cable and Wireless.

Details of charging patterns will be found in the 'Inland and International Call Charges Regulations 1982' of the Public Utilities Undertakings Ordinance.

Notice has been taken of the views of the Opposition expressed during the Budget session, however Government does not consider these views practical.

It should be noted that Government has been able to introduce International Direct Dialling three months prior to the original provisional date. Thank you, Sir.

HON G T RESTANO:

That statement, Mr Speaker, we do not welcome, very much the opposite. We gave our views at budget time and we said that it was quite unnecessary for the Government to charge local calls. We consider that the increase that there is bound to be in international traffic owing to the easier facilities in making trunk calls will engender a greater revenue for the Government and particularly in today's circumstances of Gibraltar with a closed frontier etc, we think it is quite unnecessary and uncalled for. On a matter of clarification, the Minister has said that there will be 120 free units per quarter per subscriber. Can he tell me what period of time do those units cover?

HON DR R G VALARINO:

I said 120 units per quarter will be free of charge.

HON G T RESTANO:

What period of time in length of telephone conversation does 120 free units represent?

HON DR R G VALARINO:

I said either at the standard or the cheap rate

HON G T RESTANO:

Let us say the standard rate.

HON DR R G VALARINO:

3 minutes or 9 minutes.

MR SPEAKER:

What he is saying is that if the calls are made at the peak rate they will be charged at that rate.

HON DR R G VALARINO:

That is right and if the call is made at the other rates you will be able to speak longer for the same amount of money.

HON G T RESTANO:

I do not think I have understood the Minister.

MR SPEAKER:

At the cheap rate you can make your unit call and it will be calculated to 4 minutes, is that correct?

HON G T RESTANO:

Perhaps the Minister can make it clear. The 120 units would represent what period of time at the cheap rate, the standard rate and the expensive rate? In other words, for how long can one talk for 120 units which are given free of charge?

HON DR R G VALARINO:

Let me explain this, Mr Speaker. The allowance is based on units. These units which will be 4p each, at the standard rate you will be able to speak for 3 minutes for 4p and at

the cheap rate you will be able to speak for 9 minutes for 4p, therefore you will have 120 units and it will be up to the individual consumer to choose in which period of the day he will ring up, Sir.

HON A J HAYNES:

You are being given £4.80 free and the rest is kept by Government, is that correct? In effect, 120 units is £4.80 worth of calls. That is a very paltry sum.

HON P J ISOLA:

Am I right in saying that provided you talk at the cheap rate of 9 minutes during the time the cheap rate is charged, they will have a total of 18 hours free calls over 90 days which is 2,160 hours? If you spend your time talking the whole of the 90 days you would only have 18 hours free out of 2,160 hours provided you talk during the cheap time. That is a nice mathematical one for you. It shows how little you are given.

HON A J HAYNES:

£4.80 out of the rental I feel that is far too low and will the Minister consider increasing that at least?

HON DR R G VALARINO:

Mr Speaker, Sir, the Hon Member considers that the £4.80 per quarter of the free call allowances is rather low. Let me say two things, first of all, that if Government had to balance the telephone account we would have needed an increase or something in the region of 69% in residential telephones and 49% in business telephones which would have proved much higher than the amount we are giving at the moment. Secondly, this newspaper which has arrived today which clearly says that phone bills will go up by 5% for householders says: "The average domestic bill is expected to rise by 5.4% or 1.9. a quarter to 37.33. The increase for business customers is being held at 1.6% or £3.04 on the average quarterly bill which will go up to £193. Rental installations and basic call charges are up and there are some tariff reductions in a series of proposals submitted to the Post Office Users National Council for clearance. British Telecom wants to introduce the new charges on November the 1st. The charge per dial call is to go up by 0.2p to 4.5p for local and some trunk calls whilst charges on some operator calls will rise by 12p. Furthermore, connecting charges will rise by £5 to £75 for residential customers and £85 for businesses. There will be increases of between 5% and 30%

MR SPEAKER:

You must not read the whole article.

HON DR R G VALARINO:

I just wanted to make the point, Sir.

MOTIONS

HON CHIEF MINISTER:

Mr Speaker, I have the honour to move in the terms of the motion standing in my name that: "This House, recalling the resolution adopted at its meeting held on 17 March, 1982, resolves that the Honorary Freedom of the City of Gibraltar be now conferred upon the all-party British Gibraltar Group in Parliament, as a sign of the deep gratitude and appreciation of the people of Gibraltar for the unstinting support and efforts of Members of both Houses of Parliament, of all parties, over the years, particularly in the struggle of the people of Gibraltar to maintain their right to determine their future and in their campaign to achieve entitlement to British Citizenship". The resolution adopted by this House on the 17 March, 1982, contained three features. First of all, it recorded the deep appreciation of Gibraltar for the support and efforts of its friends in Parliament over the last 17 years with special reference to the question of British Nationality. Secondly, it resolved that the Freedom of the City of Gibraltar should be conferred on the all-party British Gibraltar Group in Parliament and, thirdly, it stated that this should be done at a time considered after consultation with officers and members of the Group to be most opportune. The consultations referred to in the resolution was undertaken very shortly after it was passed and as a result it was agreed that the conferment of the Freedom of the City should be proceeded with at the earliest opportunity. It is in accordance with that agreement that I have proposed today's motion. This will, I hope, help to dispel any thoughts that the Government in putting its amendment on the last occasion was in any way trying to delay the matter. What the Government was anxious to do was to ensure that the timing of the conferment should be fully discussed with those concerned and agreed upon. This has now been done. Hon Members will have observed a new and significant feature in the motion now before the House. In addition to singling out in relation to the support and efforts of Members of Parliament the question of British Citizenship, the motion now makes a special reference also to Parliament support in the struggle of the people of Gibraltar to maintain their right to determine their future.

This may have been held to be implicit in the original motion but I think there are two good reasons why the points should be specifically mentioned. The first is that this has been and continues to be the most important and fundamental issue for the people of Gibraltar. The second reason is that I hope that it will, if only indirectly, meet the points raised by the Hon Mr Bossano in the last debate when he suggested that there might be one or perhaps a very few members of the British Gibraltar Group who, in his view, might not entirely share the views of the great majority of the members of the Group. The motion, as now worded, makes explicitly clear exactly what we have in mind and why the Freedom of the City is being conferred. This makes it in the case of the one or two members in question a matter of "if the cap does not fit, do not wear it". Finally, Sir, I refer to the third feature of the resolution adopted on the 17 March and of course retained in the motion now before the House, which is the deep appreciation of the people of Gibraltar for the support and efforts of its friends in Parliament. This appreciation runs so deep and is so well known to us all here that I need not elaborate on it at length. It is, I believe, also well known to the members of the Group and its most eloquent and direct expression is, of course, the actual conferment of the Freedom which the motion proposes. I have been closely connected with the Members of both Houses of Parliament who have helped Gibraltar and stood so staunchly beside it over the years. Their connection with Gibraltar has not been merely on the political plane. They have become our close personal friends and the warmth of their regard and concern for our welfare is something which I wish today humbly and publicly to acknowledge and record. I cannot speak too highly of their interest and concern. In the recent past it has been necessary for me and other Hon Members of this House to visit Britain to discuss matters affecting Gibraltar. On each occasion a meeting of the Group has been arranged, very often at short notice, so that we might address its members and on each occasion irrespective of their other very pressing parliamentary business, the members have turned up to listen to us, to discuss our problems and to ask how they can help. We are not their constituents. We did not vote for them, there are no UK political party implications for they come from all the parties and it is this deep and disinterested affection for Gibraltar which we are formally acknowledging and recognising today. The point was made by the Hon Leader of the Opposition on the last occasion that there has been no conflict over the years between the Group and the British Government because the latter has always stood by us on the fundamental issues. I agree with that, there was perhaps a minor disagreement over British Citizenship and I am confident that the role of the Group will continue to be one of support for Gibraltar and of support for the British Government in its support for Gibraltar. Nevertheless, there is great comfort in having a body of friends who will from time to time prod, question and apply gentle pressure

on Gibraltar's behalf. As one former Foreign Secretary put it to me recently when a hypothetical proposition was raised in conversation, he said: "Parliament would never allow that". That is the measure of their influence and a commentary on the workings of true democracy. Sir, I commend the motion, I do so with the greatest warmth at my disposal and with sincere pleasure.

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

HON P J ISOLA:

Mr Speaker, we of course support this motion which has been brought to the House really on the first possible occasion since the motion that was adopted on the 17 March. The only meeting that has intervened between was the actual budget proposals meeting which, as you are aware, Mr Speaker, devotes itself entirely to discussion of the budget. I cannot, of course, disguise my pleasure at seeing that this motion is now before the House and definitively we are now to confer the Honorary Freedom of the City of Gibraltar on the all-party British Gibraltar Group in Parliament and my party wholeheartedly support this motion. The reasons for the motion I, of course, brought to the notice of the House in my intervention on the motion brought from this side of the House on the 17 March, 1982, in which, of course, I informed the House that it was our view that the appropriate time for granting the Freedom of the City was then and we had had ourselves discussions on the matter with Members of Parliament who also thought it was the appropriate time. Mr Speaker, over a number of years a couple of months makes no difference and I am glad that the Chief Minister himself when he held his discussions in London, discovered the very strong feeling there was among our own Members of Parliament, our own supporters, that the time for the granting of the Freedom of the City was now rather than later. As I said in the last debate we will be looking to our friends in Parliament, I think for the foreseeable future and obviously we cannot wait forever and certainly now if now was right in March, now is more right now when the frontier in fact has not opened and we have had this attempted assault once more by the Spanish Government on the sovereignty issue over Gibraltar which has been rejected with such robustness by Her Majesty's Government lead by Mrs Margaret Thatcher who now even obtains on this issue the ungrudging support and admiration of the Hon Mr Bossano. I never thought, Mr Speaker, we would live to see that day but we have and I think it is very noble of him to give the support that he does. Now is the time once more to show our appreciation for the wonderful work that is done for us in Parliament and now, possibly, is also the time and maybe really opportune especially in the face of some of the comments that one has heard in the recent past from some Members of Parliament.

following the Falklands dispute and the Falklands re-possession, some Members of Parliament, I am sorry to say close friends of my Hon Friend on the left and I am sure he is sorry to hear it too who seem to be taking rather an irresponsible attitude on the matter. I am sure, Mr Speaker, that the resolution that is being passed today by the House, and I hope it will have the support of all Members of the House, will show our friends in Parliament our very deep appreciation for the efforts throughout the years on our behalf and for the efforts for the future. It gives me the very greatest of pleasure to support this motion.

HON J BOSSANO:

Mr Speaker, I welcome the opportunity to be able to say without any reservation that I and my party are fully in favour of the motion that is being brought to the House and I welcome particularly the inclusion of this reference to our right to determine our future which I think, as the Hon and Learned Leader of the Opposition has said, has very clearly for the first time been questioned by some Members of Parliament in the context of the Falklands dispute. The Chief Minister, of course, informed me before the meeting of the House that he was proposing to bring the motion before it was made public, I had already discussed the matter subsequent to the 17 March in the executive of my party, we had an opportunity to consult some of our friends in the Labour Party in the United Kingdom which are the ones that we have got close relationship with and I have to say that the support of Parliament on the question of the right of self determination should perhaps be easier to obtain, as I see it, because of the successful operation in the Falkland Islands. I think there is no doubt, looking at the behaviour of some members of the left of the Labour Party in particular in the context of the Falklands operation, that the stand that they took in considering that the fundamental human rights of 1,800 Falklanders could be sacrificed on the altar of expediency made to many of us a total nonsense of their profession of their commitment to a principle stand in defence of working class interests or of any other forms of ideology. I have no hesitation in confirming the assessment of the Hon and Learned Leader of the Opposition that I have no hesitation in saying how much I admire the principle stand that Mrs Thatcher has taken in defence of the interest of the Falkland Islanders. I only wish she would carry through that example and take an equally principle stand in defence of health service workers, railwaymen, miners and so on. However, there is no doubt that if we have to face difficult decisions in the future it would be easier and better for us to be able to say that we disagree with the British Government over specific issues like the closure of the Dockyard without in any way having any innuendo or conflict or insinuation that our right of self determination is being put on a balance

and that we either have to choose between one and the other. We can still look to the British Government and to Parliament to support us on the right of self determination and perhaps have to do battle with the British Government on aid or the Dockyard or anything else. I support the motion, Mr Speaker.

HON MAJOR R J PELIZA:

Mr Speaker, I would like to say a few words. It is a tremendous joy and pleasure to be able to support the motion word for word as it is written, Mr Speaker. I, since 1964, have been in touch with Members of Parliament. I from that day saw that Gibraltar might need their help sooner or later and it did transpire on what was perhaps one of the most important issues for the Gibraltarian, our nationality, it was through the efforts of those Members of Parliament that we were able to achieve that. To me the Houses of Parliament is the heart and conscious of the nation and whilst the Government is moved by exigencies I think the moral situation is much more respected and upheld in Parliament than it is by the Government. This is why this, in my view, is the greatest safeguard that small communities like Gibraltar have. I can say that perhaps it was really Parliament that urged the Government to take up the question of the Falklands in the radical way that they took it. I must also say that it was perhaps because we had such a Prime Minister with so much courage at the head that the pressure put on Parliament was effective. I have written directly to Mrs Thatcher and I have sent to her this very good booklet on Gibraltar; "The Truth about Gibraltar". I am pleased to say that she replied herself and told me in that letter: "I shall be reading this pamphlet with great interest during this week-end". Here we have a Prime Minister who is very directly concerned not only with great issues but also with very small issues, perhaps, like that of Gibraltar. We have, I think, Mr Speaker, up to now been using Parliament purely as a defensive weapon for Gibraltar in a sort of negative way. I think a lot of thought should be given to using Parliament in a positive way in achieving changes that I think are necessary in Gibraltar for the sake of having permanent security and not having to live from day to day as we are doing at present. I hope that this House will take that into account and will use the good offices of the Gibraltar Group to foster the changes that I think should come to Gibraltar through the pressure that I am sure we can put on the Government from Parliament. I am sure, Mr Speaker, that the Members of the House, those who are our friends, will appreciate very much this gesture from the people of Gibraltar which obviously has the full support of all the Members of this House and I am sure not just all the Members of this House but I would say 99.99% of the population.

MR SPEAKER:

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

HON CHIEF MINISTER:

Mr Speaker, it is not difficult to reply when everybody is in agreement. I do not know what the Hon and Gallant Major has in mind, I thought at one stage he was saying that we should cause changes in Parliament itself but apparently the changes are to be carried out in Gibraltar. Anyhow, I am prepared to consider any suggestions for changes which we can put to the Members of Parliament.

HON MAJOR R J PELIZA:

If the Hon Member will give way. I meant a kind of constitutional change that will get us off the name of being a colony, that is the first move that I think we should do.

HON CHIEF MINISTER:

Well, I think you are almost advocating the Gibraltar Democratic Movements initial policy, Mr Bossano's prayer, if he prays. Anyhow, I think that perhaps I ought to say now that we ought to start thinking more positively of how this is going to be carried out in effect which is the gesture which we have to think of, how and who is going to come out to receive the Freedom of the City, that is really the mechanics of it and we should devote our attention to that.

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

The House recessed at 6.40 pm.

WEDNESDAY THE 7TH JULY, 1982

The House resumed at 10.45 am.

MR SPEAKER:

I will remind the House that we are on motions.

HON CHIEF MINISTER:

Sir, I have the honour to move in the terms of the motion standing in my name: "That this House - (1) deplores the policy of restrictive and repressive measures employed against the people of Gibraltar by the Spanish Government in its attempt to achieve a transfer of sovereignty over Gibraltar; (2) affirms the determination of the people of Gibraltar to continue resisting the said policy of the Spanish Government and not to yield to the said measures; (3) reiterates its view that sovereignty is not a matter for negotiation with Spain; and (4) expresses its appreciation to Her Majesty's Government for upholding the right of the people of Gibraltar to determine their future and its confidence to Her Majesty's Government's commitment to support and sustain the people of Gibraltar for as long as the restrictions make this necessary". Sir, it seems to me right that I should bring this motion to this House at its first meeting after the last failure to implement the Lisbon Agreement in order that as an Assembly we should take stock of our position and give public expression to our views on the situation as it is today. I propose to comment as briefly as I can on each of the paragraphs of the motion and on how I see the future and then to ask the House for its endorsement. Mr Speaker, I hope you will allow me if I make use of copious notes because it is a rather delicate matter and I want to be able to speak with some confidence that the right thing is said. Whilst the thought in the first paragraph of the motion might seem after all these years an obvious one it is expressed today in the motion because the restrictive and repressive measures to which it refers should have been removed twelve days ago in accordance with the formal agreement entered into between the British and Spanish Prime Ministers on the 8th January, 1982, an agreement which stemmed from another formal agreement entered into between the two countries on the 10th April, 1980. The paragraph links the measures with the Spanish Government's attempt to achieve the transfer of sovereignty over Gibraltar because it has recently become abundantly clear that the original purpose of the restrictions to coerce the people of Gibraltar into changing their political will is as alive today as it ever was. Paragraph 2 of the motion accordingly reaffirms the determination of the people of Gibraltar not to yield to coercion. It may be that everybody knows this already but again it seemed to me just as well in the present situation to say it. The third paragraph goes naturally and consequentially from the second and this is indeed again merely a re-statement of the views expressed in this House on the 8th November, 1977, and again on the 28th April, 1980, which are the two resolutions which have been passed unanimously by this House in this respect. Hon Members may recall that in the course of the debate of the 8th November, 1977, I announced that I had proposed to the Foreign Secretary at the time, Dr David Owen, that a meeting might be held between the British and the Spanish Governments at which the

Leader of the Opposition and I might be present. I said at the time and I quote: "The main object of this meeting will be to provide an opportunity for the two of us to have a talk with representatives of the new Spanish Government so that they should know directly from us the views and feelings of the people of Gibraltar. It seems to be right that we should not let this opportunity pass without taking some initiative in order to see whether the new democratic government of Spain takes a more up-to-date and a more enlightened view on the question of Gibraltar". Then I stressed finally that the talks would be purely voluntary without any commitment whatever on any side and completely without prejudice to the position of any of the parties. It was as a result of this initiative that what was to become known as the "Strasbourg Process" began. I mention this for three reasons; first of all the fact that the initiative was mine showed that we in Gibraltar were not totally closed to the idea of dialogue and that some degree of understanding might emerge. Secondly, I mention it because the Strasbourg Process did in fact achieve something; a recognition by the Spanish Government of the separate identity of the people of Gibraltar. This the former regime had consistently denied and indeed had often expressed its total contempt for us. Thirdly, I refer to the Strasbourg Process because it was in the course of this meeting that I stated that in spite of everything I would express the goodwill of the people of Gibraltar and that this goodwill meant the willingness to set aside the very real and very deep resentment and bitterness caused by the grievous wrong inflicted on them by Spain over the years as well as as genuine readiness to enter into a new relationship of friendship and understanding. I expressed the hope that this willingness would be reciprocated by goodwill in both moral and practical ways. I warned that without such reciprocity the goodwill which Gibraltar offered could not only wither it would turn into a bitterness and separation greater even than that of the past. Some 18 months later the Lisbon Agreement was signed. Its essential practical features were the Spanish Government's decision to remove the restrictions and the agreement of the two Governments to start negotiations aimed at overcoming all the differences between them on Gibraltar. I shall come to this question of negotiations in a moment. My immediate point is the spirit in which the Lisbon Agreement was conceived and the words used in its text. The agreement speaks of a spirit of friendship of closer understanding; of practical cooperation on a mutually beneficial basis. After the outright hostility of previous years in the United Nations and elsewhere, it seemed as though perhaps partly because of the contacts established through the Strasbourg process we were at last about to enter into a new climate, one in which the two sides reserved their fundamental position but one in which goodwill was to be the prevailing wind. It was for this reason that the Leader of the Opposition and I, having in a joint communique expressed our reservations on the negotiations on sovereignty and recording our continuing faith in Britain, supported the Lisbon Agreement and looked

to the future with hope and confidence. We continued to support the agreement for the rest of that year and throughout 1981, a period during which the British Government declined to consider Spanish suggestions which amounted to re-negotiations or pre-negotiations. We continued to support it after the London agreement of the 8th of January 1982, and again up to the 8th of April, 1982, when a postponement was announced and yet again beyond the date and right up to the 21st June, 1982, when the Spanish Government requested a *deferent sine die*. We had been fully prepared to attend the Sintra talks and were due to leave Gibraltar for this purpose on the 22nd of June. Much has been said since the 21st of June on whether the Lisbon Agreement is dead, dying or very ill. When the last postponement was announced on the 21st of June, I issued a communique in which I stated, *inter alia*, that in agreement with the Leader of the Opposition I had requested through His Excellency the Governor an early meeting with the Foreign and Commonwealth Secretary in order that we might express our views to him on the situation which had arisen and in order to discuss with him our future attitude to the Lisbon agreement. That remains my position today. On the 29th of June it was stated in the House of Commons, following His Excellency the Governor's visit to London on the 23rd of June, that British Ministers looked forward to meeting me again in the near future. It is my understanding that the date for that meeting will be arranged soon and in the meantime I am able to announce formally that Lord Belstead, Minister of State at the Foreign and Commonwealth Office with responsibility for Gibraltar, will be arriving at Gibraltar on the 21st July for a 3-day visit. He will be accompanied by a senior official from the Foreign and Commonwealth Office and a private secretary. This visit will provide a first opportunity for the Leader of the Opposition and myself to discuss with the British Minister our future attitude to the Lisbon Agreement prior to a discussion with the Foreign Secretary himself. I cannot pre-empt that discussion but it would be wrong if I were not to comment in this debate on a number of points relating to the Lisbon Agreement. First of all, and in spite of whatever views people may hold about wanting the frontier to open or not to open, there can be no doubt that the Spanish Government's failure to remove the restrictions has added substantially to the resentment and disillusion of the people of Gibraltar. More materially a number of people have been financially affected, some for a second or third time by that failure. Indeed, a considerable amount of public money has been spent in preparation for an event which had been formally agreed upon at the highest level between the British and Spanish governments. One thing is clear, whatever may happen the Lisbon Agreement as such the people, the businessmen and the Government of Gibraltar can no longer place their trust in promises of the removal of the restrictions nor can they formulate their plans and policies on that basis. We must now re-shape our aim and in particular the economic aims on a different assumption. To do otherwise would be foolish and irresponsible. The question whether the Lisbon Agreement

should continue to have support is as I have said one which we will be discussing with British Government Ministers. It could be said that if we had supported it in the past it is only logical that we should do so in the future and that the failure of one side to honour its provision does not detract from the merits which we have hitherto seen in the agreement. But it would have to be made clear that if there is to be continued support for it, that support must continue to be based strictly on the terms of the agreement as it stands and not on any pre-conditions, re-negotiations, or a less understanding. I refer in particular to the words "negotiations aiming at overcoming all the differences between them on Gibraltar"; these are, of course, the words against which the Honourable Leader of the Opposition and I entered our reservations in April, 1980, and this provision of the agreement was of course fully safeguarded by the British Government's intention also recorded in the agreement to maintain fully its commitment to honour the freely and democratically expressed wishes of the people of Gibraltar, a commitment which has recently been re-stated in the most forthright and unmistakable terms by the Prime Minister herself. What we can never agree to and what the British Government has made clear it can never agree to, is to enter into the negotiation of differences with the pre-condition that the outcome of that negotiation should be pre-determined in advance. The essentials of our policy must therefore, in my view, continue to be to protect our right to determine our future and to work for the preservation of our economic stability. We must as soon as possible consult with the Secretary of State who said recently in Parliament that the British Government was keeping in close touch with the development of opinion in Gibraltar, review the whole position with him, ascertain his views and those of the Prime Minister on the situation and come to a conclusion. In doing so we shall not forget that as has happened in the past, it is by means of consultation and the reaching of a consensus with the British Government which is ultimately responsible for the conduct of Gibraltar's external affairs that our interests are best safeguarded. Sir, the final paragraph of the motion calls on the House to express its appreciation to Her Majesty's Government for upholding the right of the people of Gibraltar to determine their future. I take particular pleasure in this part of the motion for two reasons. First and most importantly because of the enormous reassurances that the people of Gibraltar have received from the latest evidence of the British Government's total resolve to respect their wishes. Secondly, on a more personal note, which I have always praised the British Government even during the most difficult times when others doubted and questioned, has once again been vindicated. Thirdly, finally the motion calls on the House to express its confidence in Her Majesty's Government's commitment to support and sustain the people of Gibraltar for as long as the restrictions make this necessary. The situation today is in this respect very similar to that which originally led the British Government

to adopt the policy of support and sustain. If the Spanish Government maintains its present position I for one can see no prospect of the removal of the restrictions in the foreseeable future. As in previous years this is not of our making nor can we be accused, as I have tried to show, of unreasonableness or intransigence. The question of Gibraltar's economy is of course another matter to be discussed first with Lord Belstead during his visit in 14 days' time and later again in London. Sir, I commend the motion to the House, and also for its endorsement and for the support of the views and aims of policy which I have put forward. The motion is co-sponsored by the Leader of the Opposition and its endorsement by the House will show the degree of support which our joint views enjoy among the elected members of this House and through them the people of Gibraltar as a whole. Sir, I commend the motion to the House.

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

HON P J ISOLA:

Mr Speaker, I have pleasure in supporting the motion which I am also sponsoring on behalf of the Democratic Party of British Gibraltar. We support the motion and we think it is opportune that the House should discuss the situation following the gross breach of the Lisbon Agreement on the part of the Spanish Government in its failure to fulfil the commitment solemnly given by that Government at Lisbon in April, 1980, and reiterated by no less a personage than the Prime Minister in Spain as recently as January 8th, 1982. These are facts, Mr Speaker, that we must face and which must put serious doubts on the possibility of anybody taking seriously solemn pledges given by a democratic government. As I understand it this doesn't happen in democratic countries, when people sign an agreement they comply with it, they fulfil it, and this hasn't happened and this is something that is bound to have a profound effect on the way we think and on the way we approach the matter. Mr Speaker, the question of the restrictions and the repressive measures taken by the Spanish Government against the people of Gibraltar is something that we should deplore not so much because we cannot live with them, not so much because it doesn't really matter to a lot of people today whether they are maintained or not, but because of the principle behind them, the principle of trying to subjugate a people by repressive measures. I was interested - or rather - I am interested, over the years, to reflect on how people now or a great number of people now don't want the frontier to be opened, don't want the restrictions to be lifted and this seems to have sort of permeated internationally, you know, the people of Gibraltar don't worry about it so much any more, but that is bad, that is not a good thing for Gibraltar, Mr Speaker, because the very basis of the support that we get internationally is that Spain is trying to beat

us down, trying to beat us into retreat, trying to beat us into subjugation. I was interested to read in a letter in The Times on Saturday, for example, a correspondence in The Times comparing the dreadful manner in which Argentina had dealt with their situation, comparing that with the civilised approach of the Spanish Government to the problem.

HON CHIEF MINISTER:

If the Honourable Member will give way. We sent a reply to that letter.

HON P J ISOLA:

I am sure that the Chief Minister has. With the civilised way in which the Spanish Government had approached the matter. Well, it is not civilised, Mr Speaker, in a democratic country or between democratic countries it is not civilised to have restrictions to have closed frontiers to search people the way that I understand people who leave Gibraltar and go to Spain now are searched, to restrict people, to humiliate people, that is not civilised. I agree it is slightly better than shooting at them and moving in. But, of course, war is more or less outlawed in the West and we would not expect that but this is the next step or the step lower down. We have to deplore the policy of restrictive and repressive measures. We have to deplore that as being an unnatural situation and not the sort of thing a civilised country would do and not a thing one would expect from a democracy, Mr Speaker. I think it is interesting to reflect that the restrictions or the total closure of the frontier which was done by the late General Franco, the Fascist government of Spain, the restrictions have now been in existence for a longer period under a democracy in Spain than it was under the dictatorship. I think Franco celebrates his death, or whatever it is one calls it, in November, it is seven years. The restrictions started in 1969 so we have had more time of restrictions and repression under a Spanish democratic government than we have had under Franco's dictatorship. And on top of that, Mr Speaker, they are our NATO allies. On top of that they are our NATO allies, but that Frontier stays closed. I know a lot of people say it is a jolly good thing keep it closed, but let us not lose the armaments or the munitions in our armoury by saying keep it closed. No, it is wrong that it should be closed. The restriction should be lifted without any preconditions of any kind. There should be normal relations between Gibraltar and Spain as there is between Spain and France and Spain and Italy and everywhere else, why shouldn't there be? That is why we have to deplore a policy aimed at subjugating the people of Gibraltar. We will never submit to that Mr Speaker, we will never submit to that, and we will continue to affirm the democratic principle of self-determination which is applicable to the people of Gibraltar as it is to any other people in any other territory.

Sovereignty, of course, is not negotiable, Mr Speaker. It is the wish of the people of Gibraltar, expressed in the Referendum, expressed in a number of elections, one after the other, that we should have a British Gibraltar and if there is need to emphasise it more this wish has been highlighted very recently last year in the way that people in Gibraltar responded to the campaign to obtain full British citizenship for the people of Gibraltar. That should have been an indication to the Spanish Government of the permanence of the wishes of the people of Gibraltar in this matter. That, Mr Speaker, is the Gibraltar position and it is worth repeating every now and then and I think the British Government know it as well as anybody else. I know my Honourable friend Mr Bossano will jump up and say: "Well, if that is the case why did you agree to Lisbon?" Well, we agreed to Lisbon, Mr Speaker, for the reasons the Chief Minister has already pointed out. The Lisbon agreement was in fact a contradiction in terms. The Lisbon agreement permitted the Spanish Government to lay its claim to Gibraltar and permitted the British Government to say in the same agreement that they will respect the wishes of the people of Gibraltar, the preamble to the Constitution. And it was because of the preamble to the Constitution that we were prepared to accept the Lisbon agreement because it was to be left to us to make that decision and it is proper that it was the people of Gibraltar who make that decision. I have no doubt in my mind that our wishes would be respected and that of course has been reinforced enormously by two parties, the Spanish Government and the Prime Minister of Britain. The Spanish Government in the way they have resisted implementation. If the Lisbon agreement was such a good thing for Spain it would have been implemented, Mr Speaker, on the 1st of June of 1980, and we are now in July, 1982, and they have not implemented it. I am not saying the Lisbon agreement was a fine agreement, far from it, it is something that one accepted with very serious reservations, but there is another side of the coin and the other side of the coin is Spain. Spain was not happy with the Lisbon agreement, Spain didn't want it, Spain has rejected it in fact; Spain has killed it, if it is dead. I don't know whether it is dead, I think the Foreign Secretary of the United Kingdom has to decide whether it is dead or not, they are responsible for our foreign relations and we must never forget that either. If it is dead it is because the Spanish Government has killed it but the agreement, Mr Speaker couldn't have been so disastrous as my Honourable Friend has thought to point out in a number of public meetings when the Spanish Government continuously refused to implement it. But it is there and the foreign policy question is something that I just want to say a few words about and that is that our foreign relations are conducted by the British Government and we must be guided by them. We cannot tell the British Government how they should conduct our foreign relations. In the first place they have a little more experience in the matter than we do and they have people far better trained on the matter than we have and, secondly, if we are part of Britain, if we come under British

Sovereignty and that is our wish, then we must accept that the way our wishes are put forward, the way the foreign policy of Britain is put forward is a matter for the British Government. What we can insist on validly and what we have done and much more importantly what has been accepted, is that the British Government will go to the negotiating table, they will allow the Spaniards to talk about what they like, to make any proposals they like, but they will say: "Remember one thing there is - I shouldn't use the word - the Gibraltarian veto. It will be up to the people of Gibraltar to decide whether they want a change in their status." Subject to that reservation the British Government says: "In the interest of our relations with you, Spain, in the interests with our relations with Europe, America and so forth, we are prepared to talk and negotiate." It is not a situation we particularly like, Mr Speaker, but it is a situation which is practical and as long as our position is preserved I go along with it. I think I have to go along with it as a responsible elected leader of the people of Gibraltar. But, as we know, the frontier hasn't opened and we are back to square one and, Mr Speaker, we will be back to square one on a number of occasions because the Gibraltar problem, if one calls it that, is an intractable problem because you have a country that is not interested in anything else but acquiring sovereignty and you have a people who desire to stay British for ever and you have a protecting government or you have a mother government that insists on respecting the wishes of the people in accordance with the principles of the United Nations Charter and so the problem is here with us for a very considerable time and what we have to do in Gibraltar is to ensure that we have that support where it matters and that is in the Parliament of the United Kingdom. That support has manifested itself so well in the British Nationality Bill discussion which I think brought the support for Gibraltar to its peak in Parliament and since then there has been a slight falling off in sections of Parliament I have perceived, not because of Gibraltar but because of other international questions. On the one hand we have had, I think, the very significant bonus that the Prime Minister of England, no less a person, has said absolutely clearly that she would stand by the wishes of the people of Gibraltar and you have also had no less a person than the Prime Minister of England saying that there is no question of Spain going into the European community with a closed frontier in Gibraltar. That, Mr Speaker, for us is an enormous plus because all we have had in the last three years is that it would be inconceivable for Spain to join the EEC with a frontier closed. Now there has been a definite statement, there has been a definite hardening of attitude in the British Government following, I think, the Falklands dispute and following, I think, the profound effect that has had on senior British Ministers in the sense that they have realised that there comes a time that you have got to stand by principles and you have got to forget the advantages or disadvantages of standing by them and having made that decision with the Falklands they have found it, I think, so much easier to say publicly what

they feel about Gibraltar and to say publicly what of course, Mr Speaker, I am sure Honourable Members will realise, they have been saying privately for a considerable time. A number of members of Parliament have told me about the EEC on a private basis. Publicly they stuck to the line that it would be inconceivable for Spain to go in with a closed frontier, now they have said it publicly and now the Spanish government knows that situation. So on that side of the coin we have had this enormous plug, Mr Speaker, and I think we must be very reassured and heartened by it but, unfortunately, because the Falkland Islands dispute has brought about a profound split in the political spectrum of Britain, we do have a section of the Labour Party today and we have got to face these facts, led by Mr Wedgwood Benn and I do not like the way they are doing things, Mr Speaker, I think there is a need for us to start talking to them because I do not like Mr Wedgwood Benn saying and still says despite the number of lives that have been lost and so forth, saying: "Hand the Falklands over to the United Nations and let them sort it out," knowing as he does, he must do he is a clever man, he is backed up by research departments knowing as he does that the views in the General Assembly of the United Nations is that the Falkland Islands should be handed to Argentina. That, I think, is serious because he had done that deliberately and if he has done that in the case of the Falkland Islands it doesn't take much imagination to believe that he has the same policy with regard to Gibraltar and with Hong Kong and with any other dependent territory of the United Kingdom and that I think is serious and I think this is something that we should try and put right and I think Mr Benn and his militants should be approached by their equivalent in Gibraltar and by the more enlightened members of the House as well. This is the importance, Mr Speaker, of the all-Party approach. Mr Benn should not just have access from Mr Bossano or somebody else in the House, I think there should be access to both sides, Conservative, Labour, Extreme Left, from all Parties, I think they should see from Gibraltar the all-Party approach. It worked in the Nationality Bill and we must ensure that it continues to work and I think all members of the House should make an effort to have a meeting with Wedgwood Benn, we should all try and do this and try and get a commitment from him because British politics are very volatile at the moment, we do not know what could happen, we do not know whether between now and the general elections unemployment going up and up and up a Labour government could be returned to power dominated precisely by Mr Benn. It doesn't look like it at the moment but we don't know and if that happened, Mr Speaker, I think Gibraltar would be seriously at risk and therefore I think we have to now do something about that and I think we should invite Mr Benn, if necessary, to Gibraltar. We must look at every single section of Parliament because the support and the guarantee and the security of Gibraltar depends vitally on support from Parliament and, through Parliament, the British people. Obviously, Mr Speaker, one cannot be too pessimistic about that because the British people clearly supported the British Government in the way they stood on the Falkland Islands and it seems to me that the British

people would support them on Gibraltar and it seems to me that it would be a very unwise government that didn't support the people of Gibraltar but we take no risks. Mr Speaker, I have no hesitation in supporting the motion, I have no hesitation in publicly expressing the appreciation of my Party to Her Majesty's Government for upholding the rights to the people of Gibraltar. They have done it for a long time but now they have done it once more in a very specific and plain way. That must give us a lot of satisfaction and reassurance and I hope and I am sure that they will support and sustain the people of Gibraltar so long as the restrictions make this necessary and, of course, even without the restrictions they will stand by us in our political objectives. They have done this for many years and I have confidence they will do so in the future. Mr Speaker, we support the motion completely.

HON J BOSSANO:

Mr Speaker, seeing that the motion is co-sponsored by the Honourable and Learned the Chief Minister and the Honourable and Learned the Leader of the Opposition, the only thing that is really in doubt is whether I support the motion or not because I think it is axiomatic that the other 14 elected members of the House do and in fact I cannot support the motion as it stands and I will be moving an amendment to the motion. I hope that the amendment will not be one that the other two parties cannot accept. But before I go to explaining the amendment which really affects only one point which doesn't change the substance of what the motion is about but which is a fundamental point of policy as far as my party is concerned, I would like to deal with the reasoning behind the bringing of the motion by the Chief Minister and the Leader of the Opposition and with the reasoning about the Lisbon Agreement. Obviously, Mr Speaker, one has only got to go back to the November 1977 motion when the Chief Minister announced the possibility of a meeting with the Spanish Foreign Minister as this initiative put to them the views of the Gibraltarians directly as regards sovereignty, one has only got to go back to that motion and to all the motions that I have brought in this House since, to be in no doubt that some of the things that have been said by the Chief Minister and the Leader of the Opposition undoubtedly find an echo in the sentiments that I have expressed on so many occasions when I have been told that the feelings that I expressed were shared, the language that I used was not shared, that there was a question of diplomacy, there was a question of rocking the boat, there was a question of being the Nemesis of this House of Assembly with my constant harping on our future not being discussed, the decolonisation of Gibraltar not being a matter for Britain and Spain, sovereignty, 101 ways of trying to rephrase the same thing to make sure there were no loopholes. It seems to me notwithstanding the fact that I have always been willing to grant the Chief Minister and the Leader of the Opposition their greater experience in dealing with the problem since they were the ones who went off to the United Nations in 1963, I seem to have been less

surprised by the Spanish reaction than they were. The spirit that they have perceived since Lisbon I haven't perceived Mr Speaker. I have seen a consistent Spanish line in the latest announcement which can go back to what they heard in the United Nations by Señor Pinies the same theme being repeated for 15 years. I see no change and therefore I am not surprised that the Spaniards should not be willing to proceed with the implementation of the Lisbon agreement and would have been worried if they had been willing to proceed because I find it inconceivable that they can proceed other than on a basis that negotiations means what most people take it to mean and I cannot see how anybody can agree to negotiate something that is not negotiable. I can understand the Spaniards feeling on this situation that they have been led up the garden path by Britain. I don't know whether the British Government or British Officials or anybody else has intimated at any point in time that the situation on Gibraltar was more flexible than could be indicated publicly but I can tell the House one thing, before they are over confident about what may or may not have been said in respect of Gibraltar, I suggest to the House that they wait for the results of the Falklands enquiry to find out what sort of indications were being given to Argentina before the invasion took place which may become public once the inquiry is carried out. Because the Falklanders themselves as anybody in Gibraltar who watched that programme saw, were in no doubt at all that in spite of the fact that their wishes was supposed to be respected they were being prodded down a road they didn't want to go, Mr Speaker. The Lisbon agreement, we have been told by the Leader of the Opposition, was something we accepted reluctantly, it is not a situation which we particularly like but he thinks that as a responsible elected leader he has to go along with it. Well, I respect his view and I would ask him to respect my view that I as a responsible elected leader have to oppose it. We differ and I accept that he is acting responsibly by his criteria and I am acting responsibly by my criteria. I have found myself accused of acting irresponsibly more than once because I am in disagreement with what other people think, Mr Speaker, and I can assure the Honourable Member that on the dockyard closure I see my responsibility as preventing it and opposing it and fighting it and he may think that as a responsible elected leader he doesn't like it but he had to go along with it because how can he fight the British Government? If the British Government says it had to be done, it has to be done, he will try to persuade it, talk to it, convince it, but at the end of the day he cannot oppose it. Well, OK, I accept that point of view but it isn't a point of view that I share. Nor can I share, Mr Speaker, what he said that if we are under British Sovereignty foreign policy must be a matter for the UK Government and therefore it is up to the UK Government to decide who they discuss our sovereignty with.

HON P J ISOLA:

No, that is not what I said. The Honourable Member well knows

that. What I have said is that the British Government conduct our foreign policy as it is their foreign policy and what they give us is the guarantee that there will be no change in the status of Gibraltar without our consent, that is the guarantee. Subject to that guarantee I go along with the British Government conducting our foreign affairs obviously, otherwise it would be an independent government.

HON J BOSSANO:

No, Mr Speaker, It is not a question of an independent government, I have said conducting our foreign affairs including discussing sovereignty and the Honourable Member has said, no. Well, then he has got to tell the British Government that discussions on sovereignty are not foreign affairs and he has got to tell the British Government that just like they would not discuss the sovereignty of the Channel Islands with France or the Isle of Man with Ireland, they should not discuss the sovereignty of Gibraltar with Spain, discuss it or negotiate it, notwithstanding the fact that we have got this right to veto because the right to veto has been asserted in very clear cut terms by the present British Prime Minister. But it was put in question in equally clear-cut terms by the Foreign Affairs Committee Report, Mr Speaker, and we have to recognise that whilst Mrs Thatcher may have taken at this particular point in time and probably for as long as she is there, a very clear cut position on the rights of the Gibraltarians and the rights of the Falklanders and the rights of any other small territory and equating that with the principle stand of what democracy and self-determination is all about, not everybody else has and it isn't just Mr Benn. No, Mr Speaker, Mr Healy was asked quite categorically on television and it was put here on GBC, was the position of the Labour Party that if a British Colony said they wanted to stay a British Colony they would be told no and he said, yes, that is the position. Now that is serious and I agree entirely with my Honourable Friend that we cannot let those things go ignored, we cannot just simply say: "Well, it doesn't matter they are now in Opposition," because in fact there is as well as this very strong and clear-cut element coming through now from the Prime Minister's Office, more clearcut than anything we have ever had on Gibraltar, and I have no hesitation in praising Mrs Thatcher for the stand she has taken on this issue even though I do not like any of her other policies and I have no hesitation in condemning Mr Benn on this particular issue even though I may agree with him on other things. But it is wider than just the extreme left of the Labour Party. I can tell the House that it is something that certainly concerns me very much and that to the extent that I am able to influence the situation I have already moved on this matter. I have already raised the matter within the Labour Party and within the Trade Union Movement in the United Kingdom. There is a resolution which is still Labour Party policy carried in the Labour Party Conference in Brighton in 1969 moved by the delegate for Cheshire constituency Labour

Party and seconded by Roy Hughes MP as sponsored TGWU MP. That resolution states quite categorically that the right of self-determination of the people of Gibraltar are sacrosanct and that the British Government should be urged to give any material as well as political assistance that Gibraltar may require to sustain and a future independent of Spain. That resolution still is there and has not been changed and I have been already in touch with people within the Labour Party to ensure that they are reminded that this is still Labour Party policy and that if somebody wants to change Labour Party policy they have to go to a conference and then there has to be a public debate on the issue. I think that it is as the Honourable Member has said, a matter which must concern all of us. The only thing I can tell the House is that clearly I recognise that other members of the House have got greater personal contact in other areas of British politics and I have them inside the Trade Union Movement and inside the Labour Party and I certainly have used them already and will continue to use them to ensure that the right of the people of Gibraltar to determine their own future and the right not to be handed over to Spain against their wishes is fundamental policy to which every Labour MP should subscribe and that that policy should enjoy the full support of the British Trade Union Movement. It isn't something we can ignore and what we cannot ignore either, Mr Speaker, and perhaps the climate for not continuing to ignore it may be more propitious now than it has been in the past, is the question of Gibraltar's future status. Whether we like it or not there is one thing that we have to face and that is that a British Colony is a dirty word in the world and that Gibraltar will not be allowed by the rest of the world to be the sole remaining British Colony for evermore. I think Mrs Thatcher already has recognised the negative aspects of the colonial relationship in the case of the Falklands, in fact, by sending back the Governor as an administrator and the Argentinians themselves, I think, have already indicated an attempt to find a way out of the deadlock by saying that what they would never tolerate is the re-imposition of the colonial regime in the Falklands and therefore I think they have indicated that an escape door for them would be to say: "Well, we are prepared to stop claiming the Falklands once it stops being a Colony, but we will not tolerate the old re-imposition of the British Empire." That has been a statement made, which I myself have heard, by the newly appointed President when re-asserting the Argentinian claim to the Falklands he said: "We will not tolerate that Britain should re-impose her colonial regime on the Falklands," and left it there. It does not mean that they have shifted their position that sometimes when one doesn't want to say something then one leaves it unsaid in order to create a situation of possible movement and I think the British Government itself has recognised the difficulty it had in persuading other member nations in the United Nations of the legitimacy of her presence in the Falkland Islands when it is seen as a colonial situation or as pseudo colonial situation where the people are in fact being manipulated by the British Government because the people are not seen as taking a different

policy stand on foreign affairs on decolonialisation from the stand of the Foreign Office and one can understand that one can understand how an emerging nation, a nation that itself has come out of colonialism can ask itself: "Well, how can the leaders of a colonial people be in agreement with the officials of a colonising power. How can that happen? What do we have here, a South African situation where the South African regime picks the Prime Minister? Is that the situation we have here?" And that analysis, incorrect though it may be in Gibraltar, because nobody is obliged to vote for anybody in Gibraltar they can vote or not vote or vote for whoever they want. Nevertheless, one has got to be able to see things from the perspective of outsiders if one is going to be able to counteract them, Mr Speaker. I would remind the House of the motion that I brought in July, 1980, that Gibraltar's future status and Gibraltar's decolonialisation should not be a matter to be discussed with Spain under the Lisbon Agreement. That is my stand today and therefore I support fully the motion that talks about the determination of the people to resist the aim of policy of the Spanish Government because I consider part of that aim of policy the discussion of Gibraltar's future constitution under the terms of the Lisbon Agreement. That is part of the policy being adopted by Spain and that is the policy that the people of Gibraltar will not have. I welcome that we reiterate once again, as we have done on a number of occasions, that sovereignty is not a matter for negotiation with Spain. I can understand that the Spaniards would then turn round and say: "Well, how do you then propose to negotiate on all the differences between us if you tell me that one of the differences is not a matter for negotiation?" So I think, Mr Speaker, that from a Spanish perspective one can see how it is that they are unwilling to implement the Lisbon Agreement which the Honourable and Learned Leader of the Opposition says that if they don't want to implement it it must be that it must not be so good for them. It isn't that; the answer is to be found in the concept of perfidius Albion. What the Spaniards say to themselves is: "These people have kept me talking for 15 years, thinking together, talking together, telling me to woo the Gibraltarians. What is to stop them keeping me another 15 years after I have opened the frontier and once I have opened it there is no prospect of closing it. I may suspend the restrictions in practical political terms, how can they be re-imposed." They cannot be re-imposed. So what the Spaniards are saying is that if you cannot be trusted to deliver the goods what guarantees can you give me unofficially or whatever you like that when you are talking about negotiations you are serious about negotiations if it seems to me that you are committing yourselves to negotiating with me on something that you are committing yourself with the Gibraltarians is not negotiable. Of course there is a conflict between those two commitments and of course the Spaniards don't trust that they are going to get anything out from the Lisbon Agreement. That is why they don't want to implement it not because there is nothing in it for them because they are not convinced that they are going to get it once they deliver their side of it.

I am as opposed to the Lisbon Agreement today as I was the day it was announced, Mr Speaker, and I sincerely hope that it is now truly dead and buried. What does that mean about the prospects of the restrictions being lifted? I cannot go along with the view of the Chief Minister that there is no prospect now of the frontier opening for the foreseeable future if the Spanish attitude remains the same because then what he is saying is either that Mrs Thatcher doesn't mean what she says or that there is no prospect of Spain joining the EEC for the foreseeable future if their attitude on Gibraltar remains the same. Because if Mrs Thatcher has said that Spain will not go into the EEC without opening the frontier and if Spain is due to go into the EEC in 1984 or 1985 or 1986, well, that is still within the foreseeable future.

HON CHIEF MINISTER:

The question of the lifting of the restrictions has been on the mat and it has been in terms of June 1980, April 1982, June 1982. Certainly I did not have in mind the question of the EEC, I said in the foreseeable future outside the conditions of the EEC if Spain wants to and is admitted. Perhaps we may not be able to use that card because somebody else will oppose Spain going into the EEC but that is another matter.

HON J BOSSANO:

Mr Speaker, I would say that from a Gibraltar point of view what has happened is a good thing. I think it is preferable that we should be looking at the development of our economy with a closed frontier with the certainty that it will not open before they go into the EEC and with the time to prepare ourselves for the impact of its opening coincidental with the EEC and having obtained the necessary protection against the effect of their membership in the EEC and our membership in the EEC. From our point of view I think that is the best possible situation in which to find ourselves. The alternative situation where they open first and join the EEC afterwards would be one that would be extremely dangerous for us because there would already be a re-orientation of the economy of Gibraltar because of an open frontier, whether we like it or not, economic forces take their own road and competition would take its own road and new trade relationships would develop and then we would find that those trade relationships would have to suffer the impacts of Spanish EEC entry and we would be in a less protected position with which to re-negotiate special concessions for Gibraltar in the advent of Spanish entry. If we have on the other hand a closed frontier and we are developing our economy on the assumption that the frontier is going to be closed for the next two years, we have got certainty of that situation for two years and we have got two years in which to plan for the outcome of an opening and an opening with the terms of that

opening determined beforehand both as it affects Spain and as it affects us because of joint membership of the Common Market. I do not see this as a disaster, in fact, I would be totally hypocritical, Mr Speaker, if having described the potential economic effect of an opening as catastrophic for Gibraltar I then went on to say that the non opening was also catastrophic because then I would be saying that it is a catastrophe whichever way it goes, I am not saying that. I am totally convinced that the problems created by the possible closure of the dockyard would have been seriously aggravated by the problems created by an open frontier and therefore if the frontier is not opened the problems by definition are going to be less serious and I cannot go along with a view that Gibraltar has suffered a major economic set-back because the restrictions have not been lifted. What has happened, of course, is that the uncertainty created again and again has taken a heavy price of the economy of Gibraltar both in public and the private sector because people put off taking a decision because they said: "Well, suppose I invest and it does not materialise or suppose I don't invest and somebody else does and it does materialise then I am left out of the picture." That situation is the worst of all possible worlds and consequently it is better that we now know that the situation is that we cannot anticipate the restrictions being lifted prior to Spanish entry into the EEC and plan accordingly although that does not mean that we consider that Spain is right in having imposed the restrictions in the first place. What it does mean is that by not lifting them they are no longer putting up under economic duress that they were when they imposed it because we have adjusted to that economic duress and we would have had to adjust to the new environment and it is the half-hearted attempts that have made that adjustment because people were not sure whether it was going to happen or not that have been creating the level of uncertainty that the economy of Gibraltar has been suffering from for the last 18 months. Mr Speaker, perhaps I can now come to the point regarding the reason why my party cannot support the motion as it stands and the amendment that I propose to move. It refers to paragraph 4 and to the penultimate line of paragraph 4. I wish to move that the motion be amended by deleting the words "the restrictions make" in the penultimate line and by the insertion of the word "is" after the word "this" in the final line thereof. So that the motion would read: "and its confidence in Her Majesty's Government's commitment to support and sustain the people of Gibraltar for as long as this is necessary." I don't know whether the British Government has committed itself to support the people of Gibraltar for as long as it is necessary but I cannot accept, Mr Speaker, that the commitment of the British Government to supporting the people of Gibraltar ends with the restrictions whether they need continues after the restrictions have gone or not which is what we are saying in this motion. Indeed, as far as I am concerned and as far as my Party is concerned, the responsibility for the people of Gibraltar for sustaining and supporting them, for defending their standard of living, for defending their social services, rests with the British Government because how else can

we say we are British, Mr Speaker. If we are as British as anybody in the United Kingdom, if Britain is responsible for our foreign affairs, then the power that goes with being the administering authority in a Colony as far as my party is concerned, carries with it a responsibility, a responsibility let me say which both other parties in this House must believe in because they are the ones who put in the 1976 memorandum to Roy Hattersley the concept of a permanent economic link. A permanent economic link isn't something that disappears when the restrictions go, a permanent economic link is something that is there when the people need it and therefore I say that there has to be a commitment and if there isn't a commitment then we will have to amend to take the commitment out and say that we have confidence that the British Government will support and sustain the people of Gibraltar for as long as this is necessary, if there is no such commitment. As far as I am concerned the commitment is implicit in the nature of our relationship with the United Kingdom. As far as I am concerned if Gibraltar, for example, had had the restrictions lifted had had the dockyard closed, had had no viable alternative, had had mass unemployment had had the worst scenario painted in the PEIDA study, if that had been there, there had been no restrictions, can we say that there would have been no commitment on the British Government's part to support and sustain the economy of Gibraltar and its people? We cannot say that. Why did the White Paper of July say that the British Government recognises that alternative means of sustaining the economy of Gibraltar would be found because the dockyard was possibly under threat of closure, because of the restrictions? Does it say in the White Paper because of the restrictions? No, it does not say that, it is a Defence White Paper. I believe that the nature of our relationship is what determines that commitment. I believe that if the British Government considers that it has the right to say to the Government of Gibraltar that aid funds can only be used in certain ways, that the level of borrowing cannot exceed a certain ceiling, then it follows logically from that that they have got to have some sort of responsibility for providing a safety net for what they will not allow the Gibraltar Government the freedom to do itself. It follows from that logically. Mr Speaker, I can either give way and allow some other member to interrupt me to see whether I should amend the thing further myself because once I sit down I cannot move any other amendment or else I would suggest that if the amendment that I have proposed is not acceptable because the only thing that I can see being used in argument against it, I cannot see how any member of this House can disagree with the philosophy of that amendment but I can see that it might be argued that the motion would then say we have confidence in a commitment that has not been given. I am saying that for me that commitment is implicit in our relationship but it may be that instead of commitment we should say something else.

HON CHIEF MINISTER:

If the Honourable Member will give way. I may wish to speak on

the amendment if he proposes it. It is something which I fully anticipated. I am only trying to interrupt him on this and that is that the way the motion is framed refers to a policy of the British Government and this House cannot alter the policies of the British Government by a resolution and therefore if you take that away and say: "Her Majesty's Government's commitment to support and sustain the people of Gibraltar for as long as it is necessary", there is no such commitment. There may be an underlying commitment in the Constitution that ultimately Britain is responsible for the finances of Gibraltar but the commitment of support and sustain came out of the restrictions. That was the reaction in the impotence of the British Government to retaliate, that was the way they helped the people of Gibraltar in the light of the restrictions. For that reason alone whether one thinks that they ought to support and sustain us after the opening of the frontier, is another matter. We could add words perhaps of what Gibraltar expects but to alter it like that is to unilaterally alter a commitment which was taken by the British Government on certain terms. That is why in these terms, really, it is unacceptable. I will not say any more on that. We might well argue out some additional words on this matter but I do not think that it would reflect the British Government's commitment to support and sustain the people of Gibraltar for as long as this is necessary because they have never committed themselves to that. It may be that we expect them to, that is a different matter, but their commitment now is as long as the restrictions continue and I think it is fair to say that they anticipated that it would take a long time because all the distortions of the economy would have to be righted before we went back to what I consider other things being equal, the ideal situation prior to the restrictions when Gibraltar did get some slight help here and there but did not have to depend on the support and sustain policy because it managed its affairs in such a way that we didn't have to go to London asking for money. That is how it was up to 1969 and therefore these words really alter the commitment of the British Government and they will say: "We never said that", and that is true. If you want to say "and hopes that this support and sustain will continue once the frontier is open that is another matter, we can discuss that, but we cannot unilaterally alter the commitment of the British Government by resolving something different ourselves because it would be getting into their commitment and they will say: "We never committed ourselves to that". We cannot alter unilaterally a statement of policy which the British Government will say: "Yes, we have committed ourselves to support and sustain you for as long as the restrictions made this necessary." That is what they have said. But if we say something else they will say no and then this resolution will not be a resolution of this House but a resolution of what the British Government should do and that is a different matter. I knew there would be difficulties about that and I also thought that perhaps we might come to some sort of formula but I am afraid that it would have to be by adding words rather than by altering them because the commitment is there as is given by the British Government. Let it be also quite clear that there can also be a mistaken interpretation. We are

having it now, we were given a \$4m tranche and we have been told we can only use it for this or the other but between friends we can argue the way in which the commitment is. The other thing which the Honourable Member has not mentioned today but has mentioned in other context which I entirely agree is desirable but it is not the reality, the British Government commitment to maintain or rather that the support and sustain policy that were not even related to the restrictions should be such that would keep the standard of living of the people of Gibraltar as it is today, that is something the Honourable Member says from time to time. I would subscribe to that but that is not what the British Government is telling us and that is why we cannot say that we hope that they will continue committing themselves to something they haven't committed themselves. Perhaps the Hon Member can think about that before putting the amendment. Perhaps we might go on with other business and see whether over lunch time we can find words that will make it unanimous. I am quite prepared to give way to the Leader of the Opposition but I hope he sees the matter in the way I have described it.

HON P J ISOLA:

Mr Speaker, when the Honourable Mr Bossano started speaking I thought we were going to be presented with an amendment that was going to be very difficult to accept and I think the amendment that he is proposing is a comparatively minor amendment but I agree with the Chief Minister that here we are reciting the commitment that the British Government have given to the people of Gibraltar and it is important to think in the circumstances in which it was given and that is why I think it is important to preserve it in the way it was given because it was given in the circumstances of a siege and they said: "We will see that that siege does not succeed" and the support and sustain words used were in that context. Support and sustain you, Gibraltar, for so long as the restrictions make this necessary. That was actual commitment. Personally, I don't mind putting there "for so long as this is necessary" but we are then changing we are then misrepresenting the actual commitment and I think that is a mistake, you shouldn't do that, and also, Mr Speaker, if we change the commitment or change what the words of the commitment were you could get a situation where the British Government could come to the conclusion that it was no longer necessary and the restrictions could still be there. It is two ways, if you are talking of the British Government's commitment and you say "for so long as this is necessary" it is the British Government that has got to decide that. I would commend to the Hon Member to approach this by reciting the actual commitment. There is no doubt in my mind and I am sure there is no doubt in anybody's mind and I am sure there is no doubt in the British Government's mind that quite apart from this specific commitment given in the face of a blockade and of an attack, that quite apart from that, they have as the Colonial power, I think the Honourable Member has said it, obligations to a dependent territory which the British Government, I don't

think they have to be told by the United Nations of that obligation but in fact the United Nations charter, it is there in the charter, they have an obligation of responsibility for the social, moral and economic well-being of the people, it is there and it is a charter that the British Government has accepted. So that commitment is there anyway. I think, Mr Speaker, if this is going to have value in other places, including Whitehall, I think we must be careful not to say something representing the British Government's commitment which they have not in fact given. If they had in fact said that, I am not against the amendment but I feel that the wording used is in fact the specific wording used by the British Government and I think if we are going to represent what they said then we must represent it accurately. That is the only comment I would make.

HON CHIEF MINISTER:

The answer might be perhaps to add a fifth paragraph saying what we hope they should do.

HON P J ISOLA:

Yes, we could have a fifth paragraph expressing the confidence of the House that Her Majesty's Government will discharge her obligations to the people of Gibraltar in all their aspects including the economic, social and political well-being.

MR SPEAKER:

I think I have given an opportunity for the matter to be aired and it is now up to the Honourable Mr Bossano to decide what he wishes to do.

HON J BOSSANO:

Given that I have given way, Mr Speaker, in coming back I want to say that I don't think the point has been understood. I realise the question of the commitment, I have mentioned it already, but what I am saying is that as far as that commitment is concerned we don't accept the interpretation put on it, the analysis put on it, for example, by the Chief Minister. We do not accept that it is true to say that we have been having a higher level aid post the closed frontier to prior the closed frontier because the figures do not support it because 1963, for example, the budget speech of the Financial Secretary at the time which I happen to have here spoke of a booming tourism and figures that were higher than anticipated and also of a level of aid from Commonwealth Development and Welfare Funds greater than what we have today at what the money was worth then. The last thing I want to do at this point in time, Mr Speaker, is to have a motion quarrelling with the British Government but the reality of it is that in the last 18 months the level of aid has been

below what it was in 1972 and the restrictions are still there, at 1972 in cash terms that is, never mind accounting for inflation. I cannot accept, Mr Speaker, that in fact the standard of living that the people of Gibraltar enjoy today is the result of the sustain and support policy unless we are saying that we have got parity in Gibraltar because of the support and sustain policy because we had support and sustain policy in 1971 when we had somebody earning £10 a week and that same person earns £100 a week today and there has not been in the intervening 8 years or 10 years a thousand fold increase in prices. Today we have a much higher standard of living because the British Government accepted paying in the Dockyard which is not part of support and sustain policy otherwise they should not be closing it, and we have to be clear what we are talking about, they accepted paying in the dockyard what they should have been paying all along. I have to come back to that, Mr Speaker, because up to 1972 wages in Gibraltar in the dockyard were 45% of UK wages and up to 1974 they were 55% of UK wages and by 1976 they got to 85% of UK wages and in 1978, 4 years ago, they got to 100% and we are told now after they have been in force for four years at 100% that our prices are 10% higher than UK. Well, if they are 10% higher than they are in UK now, how much lower were they when we were getting paid 45% of UK rates. And then if we are to be totally honest, Mr Speaker, the amount of money that was being saved in wages in the dockyard was in excess of the amount of aid that the British Government was giving the Gibraltar Government through ODA in 1972. If they had been paying what they should have been paying the Gibraltar Government would have had more money coming into our economy than they were getting through aid. But we are not here to quarrel with the British Government, we are here to say how grateful we are for the stand that they are taking. I think the House can see that my analysis of the aid that we have been getting is not in fact the same as other people's and that I can actually quantify it and I can actually give examples year by year of what that aid has meant. I cannot accept, Mr Speaker, that if I am saying that there is a constitutional obligation, a political obligation on the administering power of the colony of Gibraltar to sustain and support that economy at its present standard of living by definition because if you have allowed the standard of living to fall you are not supporting it, then a commitment to do so because of the restrictions is really as far as I am concerned, a re-affirmation of an obligation that there is already, restrictions or no restrictions. The British Government may never have accepted the obligation on the terms that I am putting it but than I am putting it because I am elected by the people of Gibraltar and part of my job, as well as having to discuss internal matters in Gibraltar, is to represent to the administering power of the Colony what the people of Gibraltar consider to be the administering powers responsibility and therefore my approach is because that Gibraltar is not independent,

because Gibraltar is not free and the Gibraltar Government is not free to do as it pleases with their land, with the assets with the resources, with the trade of Gibraltar, the responsibility for ensuring that the standard of living of Gibraltar is at least comparable with that of the United Kingdom lies with the United Kingdom Government. We don't expect them to keep us in luxury but we can expect them to maintain an equivalent standard of living in Gibraltar as part of their constitutional responsibility or else to accept that the Gibraltar Government must be given a completely free hand to do what it likes economically and to run the economy how it wishes and then the responsibility for the standard of living is rested fairly and squarely on the Government in office. But how can I come to this House and say to the Government "Why are you not doing this?" and they will tell me: "Well, we are not doing this because the British Government says we cannot change the Merchant Shipping Act," and then I say "Why are you not doing that?" and they say: "We are not doing that because we don't want to borrow more money" and I say: "Why are you not doing the other thing?" and they say: "Because the ODA says that the money cannot be used for Housing." Well then at the end of the day I must say, "Well, I will talk to the person that allows or disallows and there is the responsibility and I am saying because we are so grateful to the British Government that we should say that we have every confidence, we take away the word "commitment", but we say in our motion that we, the House of Assembly has confidence that Her Majesty's Government will support the people of Gibraltar even though they haven't said it. Let us take away the fact that they have said it because they haven't said it. But since we are all so sure that we have got this 100% backing from the British Government there is nothing to stop us saying that we are confident that they will support the people of Gibraltar whenever it is necessary, restrictions or no restrictions. That doesn't undo the commitment to do it when the restrictions are there, it just says that we are confident that if the restrictions go and the need continues the British Government will not pull out of its responsibilities simply because it has not given a commitment or simply because the restrictions are not there. I cannot see that that in any way imposes an obligation on the British Government that they have not been prepared to accept publicly, it is an obligation that I feel it to be there any way but all that it says, Mr Speaker, is that we in our trust of the spirited defence of the people of Gibraltar given by the British Government carry that trust to its logical conclusion. And it is no good saying that the people of Gibraltar will never be handed over to Spain against their wishes and let the people of Gibraltar fall below the standard of living in Spain, obviously, it is no good saying that. I think it is logical to think that the British Government will be prepared and I think that had already been hinted by the Chief Minister when he says we are back to 1969 and we are back to the situation with the British Government supporting Gibraltar back to 1969. What

What I am saying is that if, for example, the restrictions had been removed and the effect would be a total disaster for the economy of Gibraltar would we not have been back to 1969 without restrictions and would we not have expected then and be confident then that the British Government would have come forward with the necessary aid? Well, then why cannot we say it if we were confident that that would have happened.

HON CHIEF MINISTER:

Before the Hon Member proposes an amendment may I suggest that we postpone this debate, carry on with the rest of the business and perhaps over lunch we could agree on perhaps a fifth paragraph expressing confidence that the British Government will in any case continue to support and sustain Gibraltar because paragraph (4) is a statement of the present commitment, that will extend that commitment whatever happens or something like that. I think it might be desirable if we could have a situation where all members are in agreement and if a little consultation over lunch can help that I think we will have gained something much better and then we can go on with the debate.

HON P J ISOLA:

We can have an amendment by way of an additional paragraph.

MR SPEAKER:

Fair enough. I think that we have got to an impasse which can be easily solved if members are given an opportunity to consult each other and if the Honourable Mover is agreeable we will adjourn this debate until a subsequent time today. We will now proceed with the next motion.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, Sir, I have the honour to move the motion standing in my name in the Order Paper which proposes the amendment of the Second Schedule of the Licensing and Fees Ordinance by replacing item 3 of that Schedule with the item which has been circulated to the Members of the House. I take it Mr Speaker, as it is so long, that you do not wish me to read the whole thing.

MR SPEAKER:

There is no need to read the text of the motion since it has been circulated with the Agenda and we are all aware of it.

HON FINANCIAL AND DEVELOPMENT SECRETARY

Thank you, sir. Sir, early this year the Foreign and Commonwealth Office advised the Gibraltar Government that Her Majesty's Government had decided that the fees payable for naturalisation and registration under the British Nationality Act should be increased from 1st April, 1982, and that in future fees should be payable when the application was made rather than as at present when the application is approved. The fee for the grant of naturalisation is to be increased from £150 to £200 and that for registration under the British Nationality Act by a like amount. The registration under other sections of the Act will be increased from £50 to £70. The fee for the registration of a minor child is to be increased from £25 to £35 but only one fee of £35 will be charged for one or other minors of the same family provided the applications are received at the same time. No date has been inserted in the Notice before the House. The Government is opposed in principle to retrospective changes in legislation and with your permission I propose that the notice should come into force on 1st August 1982. Sir, I commend the motion to the House. Mr Speaker then put the question in the terms of the motion moved by the Honourable the Financial and Development Secretary.

HON P J ISOLA:

Sir, this motion relates to naturalisation and registration under the British Nationality Act of 1948 and as this is only in fact to be enforced for the rest of the year, really for a very short time, we agree and we support the motion but in supporting the motion I would like to say something about the new British Nationality Act and about the paragraph there, I think it is section 6, which allows the people of Gibraltar to register as British citizens. We did raise the question on this in the House in the last twelve months, asking for assurances that the fees for registration as British Citizens should be kept down to an absolute minimum and I would like at this stage Mr Speaker, to ask the Financial and Development Secretary when he replies if he can give us any information on this and what steps the Government is taking to ensure that the people of Gibraltar will not be heavily penalised financially for seeking registration as British Citizens. I think that is a very important matter a very important matter for Gibraltar and for people here and when I asked a question in the House some time ago I know that I was told that negotiations were going on and so forth; I would like, if possible, to have some information on this. We do feel that there should be the minimum possible fee because it is not a question of individuals registering as British citizens under particular sections of the British Act, people who are entitled by way of residence, spread all

over England or in the Commonwealth somewhere, this is the entitlement of a whole people to register as British citizens and I think special regard should be had to that and to the rather substantial revenue that will come from mass registration. I hope that is being taken seriously into account and that the negotiations on this point are going well.

MR SPEAKER:

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

HON FINANCIAL AND DEVELOPMENT SECRETARY

Mr Speaker, Sir, I regret that I am not able to give the Honourable and Learned the Leader of the Opposition an up-to-date account of how negotiations stand on the question of fees under Section 6 of the new British Nationality Act but I will draw the attention of the Deputy Governor who is responsible for the negotiations on this to his remarks and see whether we cannot get some information to the House at a later meeting.

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

BILLS

FIRST AND SECOND READING

THE PORT (AMENDMENT) ORDINANCE 1982

HON A J. CANEPA:

Mr Speaker, I beg to move that a Bill for an Ordinance to amend the Port Ordinance (Chapter 127) 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:

Mr Speaker, I have the honour to move that the Bill be now read a second time. Sir, the House will recall that the Port Study recommended, inter alia, that measures should be taken to strengthen the powers of the Captain of the Port and, indeed, of the Port Department in order to manage and control the Port more effectively. The Government accepted these recommendations since it considered that

the effective management of the Port area is an essential aspect of Gibraltar's economic progress and trading reputation. The Bill now before the House is in fact intended accordingly to strengthen the powers of the Port Department to this end. The first measure being taken is that of increase in the penalties for breaches of the Ordinance and of the Port Rules. These at present involve, generally, a maximum penalty of a £50 fine which in real terms means that where there is a conviction the Court will normally be likely to impose a penalty in the order of £15 or £20. This today, Mr Speaker, is not an adequate sanction. The bill therefore generally increases maximum permissible penalties to a £500 fine. The power to impose imprisonment for offences against rules in appropriate cases is also increased from 4 to 6 months. At the same time, Sir, the Government recognises that the main unusual purpose of having criminal sections under this Ordinance is to secure the efficient administration of the Port and while there may occasionally be more serious breaches of the law which might warrant going to court and the imposition of heavier penalties, normally what the Port authorities will be concerned with is to remedy promptly and effectively minor infringements which may be regarded as being quasi criminal in nature. In practice the purpose may often be defeated or may lose its point if it is necessary to take the time and trouble of going to court. That process may take up to three months, the cost and the effect on the court's workload are also reasons why it is better to avoid having to resort to this if at all possible. The Bill, Sir, therefore contains provisions in clause 9 which are modelled closely on existing provisions in the Traffic Ordinance, for the imposition of summary penalty for a limited class of offence. These are offences which are committed in respect of vessels, vehicles, traders, containers, machinery and other article and thing by being parked or left or by obstructing roads, quays, wharves or other areas on land in the Port area. The Captain of the Port and Port officials duly authorised by him and in practice this would be his deputy, the Marine Officer, the Dock Controller and his two assistants and Boarding Officers together with Police officers will have power to serve notices on persons committing such offences. A person so served will have the option of either paying to the Magistrates' Court within the next seven days a fixed penalty of £20 and if he does so no prosecution will be taken against him and no conviction will be entered against him or because he will not be bound to accept the fixed penalty procedure if he does not wish to do so, in every such case he would be entitled to a full summary trial and adjudication if he so wished. At present, Sir, the Port Ordinance gives powers to remove, to detain and where appropriate to sell and recover expenses in respect of wrecks and obstructions in the Port waters. Clause 5 of the Bill now before the House seeks to extend these powers to vessels, vehicles, trailers and the other articles and things that are left in the Port area on land in contravention of offences to which the fixed penalty

procedure that I have already referred to applies. This is seen as a desirable corollary to the fixed penalty procedure and again is intended to increase the effective powers of the Captain of the Port. The power of removal, detention and sale would be exercisable only under the direction of the Captain of the Port himself and it would not be exercisable unless a 24 hours warning notice has first been given to the owner or to the person in charge of the thing, if he can be found, or unless 48 hours have elapsed in any other case. The power of sale will not be exercised for 7 days so that the owner or person in charge will first have the opportunity to recover it after payment of removal expenses. Finally, Mr Speaker, the opportunity is being taken to make it clear under the Ordinance that mooring berthing fees may be levied in respect of vessels that moor alongside and so use Government Port facilities in Gibraltar. It is the intention of the Government to take early steps to levy boat owners who so use the auxiliary Camber for the facility enjoyed by them for some years now. 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 A J HAYNES:

Mr Speaker, as the Honourable Member will no doubt be aware we welcome this Bill and in fact as the Honourable Member will remember a question was asked in the House relating to these Rules and the production of them. We have a feeling that one of the things that can be done now at the Port regardless of ODA is an effort to clear it up and we feel that this will provide the necessary machinery in order to effect that. The only minor query I have with regard to the draft bill is that the powers are all vested in the Captain of the Port. Since we have had some debate on this, there are proposals for a different structure for the Port and this may result in the introduction of a Port Manager or a statutory Port Authority, I would like the Minister to consider expanding the powers of the Captain of the Port to include the other potential bodies who might be in charge of the Port at any given time. The other reason for proposing this is that we would like to encourage Government to look into the restructuring of the Port in conjunction with the recommendations of the Port Study. As to the assessment of the fines recommended in the Port Study I was wondering whether these in fact are on the low side. I would have thought that a hard, sharp blow would be more effective than what could be considered a minor penalty and since we can calculate the square foot value of any given area of the jetties to be way in excess of £500, perhaps the

penalty should reflect to some extent the value of the land being occupied by unwanted trailers and vehicles. I think that, Mr Speaker, is all I have to say.

MR SPEAKER:

If there are no other contributories I will call on the mover to reply.

HON A J CANEPA:

Sir, if I may deal with the second point made by the Honourable Mr Haynes, and I welcome the fact that the Opposition support the Bill. The attitude that we are going to take in the Government and here I am very much in the hands of the Attorney-General, really, but the attitude that we on the political side tend to take is that where a state of affairs has perhaps continued for a number of years such as is the case here where the maximum fine at present is only £50, we feel in the Government that to move in the opposite direction in a very draconian manner is not good government. You have to introduce tougher measures gradually and reasonably and if they are seen to be inadequate after a period of time then, perhaps, you reassess the position but to move from a situation where the maximum fine is only £50 and in practice that would be £15 or £20 and where in fact we have not been able in the past to go to Court very often and secure convictions, to now move to in one fell swoop, as it were, in an opposite direction and have an arrangement whereby fines would be higher in fact than the maximum of £500, we feel that that is not good government and I think the fact that we are giving people the opportunity for the fixed penalty which again perhaps £20 is not very high but again should it prove to be ineffective that could be increased but I think we want to feel our way on this one. Although the powers are vested with the Captain of the Port I did mention that other officials authorised by him would also have these powers and the officials that will in fact be so duly authorised do keep in mind the modest restructuring of the structure of the organisation of the Port that we are going to carry out. I think the Honourable Member will recall that there were three alternative recommendations in respect of the new Port Structure. One was that we should set up a statutory Port Authority which the Government was not prepared to go along with and having regard to the experience with GBC I would fear to move in that direction. Secondly, that a Cargo Division within the Port Department be set up. It was considered that the increase in staff required in having a cargo division would be almost equivalent to setting up a statutory port authority and, additionally, there were recommendations about the Port Department having to purchase a considerable plant and equipment and we honestly felt that it would not be cost effective. We thought that if we

tightened up in other areas which were the subject of recommendation of the consultants, we could achieve the objectives without having to have recourse to these much more radical measures so we opted for the third alternative which was that of employing a Port Manager, whom we are calling a Dock Controller, so there would be a Dock Controller and two assistants. At the moment the appointment is delayed because of a dispute with ACTSS and I would ask the Honourable Member sitting to the left of Mr Haynes that perhaps the matter should be treated with a certain degree of urgency and whether a modus vivendi could be found with the Government because we can get by up to a point because as I said the powers would be vested in the Captain of the Port, in his Deputy and in the Boarding Officers but in fact the Dock Controller and his two assistants are required at the Container Berth and also outside warehouses and that is where in fact most stuff tends to be left around giving the Port a generally untidy and unkept area. The Boarding Officers in fact they are more involved with ships which do tend to leave stuff around but to a lesser extent and that is why we want the Boarding Officers also to be duly authorised but it is the Dock Controller and his assistants that we really see as being the key officials in this respect. Additionally, there is the police as well but only as a last resort but really neither the Captain of the Port nor his No 2 have the time to be going around the Port levying such penalties. This is the way that we are approaching the matter and I think it will work; I think that other than in the areas where there is a great deal of work going on, I think the situation in the Port has improved in the last twelve months. I make it my business to keep an eye on this. His Excellency the Governor is also very active in this direction, he is an honorary inspector of the Public Works Department in this respect, and he keeps tabs on the Captain of the Port and I think other than as I say in the Generating Station and in other areas where there is work going on the whole thing is improved. The fact that the Port Office has now been located at North Mole I think will also be a great help and once the move is completed in fact whenever the Honourable Member wishes he is authorised by me to get in touch with the Captain of the Port and he is welcome to visit the new Port offices. He will see how much better they are and what in fact a generally good job has been done for what I always regard as the Cinderella service of the Government. I am glad to see that they are going to have decent offices to work in which we have got at a reasonable price. I hope that all these moves together will ensure that over the next year or so the Honourable Member will be able to agree that the situation does improve.

HON ATTORNEY GENERAL

Mr Speaker, Can I just say something about the question of

the size of the penalty. I think this is an area which is not really and truly a criminal area, it is really more of a quasi criminal area, the point being to secure efficient administration rather than to punish major criminal offences. I agree with the Honourable Minister, I think that one wants to move cautiously when increasing a level of penalty that had hitherto been at \$50, one wants to keep it in proportion. The other factor here, of course, is that we are retaining criminal offences for the more serious cases but we are moving into the area of fixed penalties which I see as being again an administrative type of sanction and that is being done by Port Department officials rather than being enforced by the Police, I would see the police as not being involved unless it was, as the Minister said, a last resort. There again that is the reason for keeping the penalties initially experimental in the sense that it is the first time that it is being done. That is the reason for keeping the penalties at a reasonably low level. One would hope that the true force of the section would be not so much the size of the penalty but the fact that it can be administered quickly and, if you like, in a salutary way. If there were a lot of contraventions one would inspect that there may be a greater number of these notices issued at the outset and the thing will settle down but generally I would favour not having too heavy a penalty for contraventions of this nature.

HON A J CANEPA:

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 A J CANEPA:

Mr Speaker, I beg to move that the Committee Stage and Third Reading of the Bill be taken at a later stage in these proceedings and if such should be the case, today.

This was agreed to.

THE TRADE LICENSING (AMENDMENT) ORDINANCE 1982

HON A J CANEPA:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Trade Licensing Ordinance 1978 (No 35 of 1978) 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 should now be read a second time. This Bill is intended to give effect to two amendments. In the first place clause 2 of the Bill extends the grounds under section 16 of the principal Ordinance for the refusal of an application by empowering the Trade Licensing Authority to refuse to grant a licence in respect of any premises if there is an existing licence in respect of such premises. The amendment has been recommended by the Trade Licensing Authority itself for experience has shown that there is a growing practice for persons to use their premises to ostensibly accommodate more than one business entity when this is clearly impossible. Clause 3 of the Bill amends the Second Schedule to the principal Ordinance by adding the item "shipping agencies." For some time now, Sir, local shipping agencies have expressed concern about the possibility of non-resident firms or individuals servicing vessels coming into Gibraltar and in this context the Government considers that it is appropriate for the request of the Gibraltar Shipping Association to be met. I acceded to that request some time ago and I informed them that when an opportunity arose that we had to bring an amendment to the Trade Licensing Ordinance in respect of some other matter to the House I would take the opportunity of moving that amendment. Clause 3 of the Bill also provides consequentially, Mr Speaker, that shipping agencies which are already operating in Gibraltar when the amendment comes into force should be entitled to a licence. They would have, nevertheless, to make application to the Trade Licensing Authority within a period of three months after the amendment has been passed by the House but if they can satisfy the authority that in fact they had been operating in Gibraltar previously I think it would be a mere formality. 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 P J ISOLA:

Mr Speaker, we agree to this Bill subject to some observations. There are really two main amendments to the Bill as the Honourable mover has said and I would like to say something about each amendment. The question of making a ground for refusal of granting a licence in respect

of particular premises where there is already a licence in respect of those premises I would go along with subject to one point. I think there is a need for an amendment in this sort of circumstances.

HON A J CANEPA:

What are you saying, that there is or there is not a need for an amendment?

HON P J ISOLA:

There is a need for some further amendment in the sort of circumstances I am going to describe. We accept that if there is a licence in respect of one set of premises there shouldn't be another one there but, Mr Speaker, the practicalities of it requires that this maybe necessary for a period of time. Let me explain. Anybody who has got a licence to trade it has to be in respect of premises. If I have premises which I give up to my Landlord because I have to because he is exercising his rights or because he has paid me to give it up or I have come to a settlement with him and I have got a licence in those premises which I have not given to him, that licence will stay fixed to those premises until I can transfer it to other premises and then I have got to apply. But the landlord or whoever has come in, the landlord or somebody else, is going to carry on a different business there and he applies for a trade licence. I don't think he should be prejudiced in that respect so there should be some provision under which the licensing authority can say, "you may have a licence for these premises even though there is already an existing licence but not operational provided that existing licence is moved away within the term of say 12 months or 6 months people cannot move quickly. I think that is important because in practical terms that happens and I think it would be unfair on somebody who has probably paid money to acquire an empty premises, finding himself not being able to get a licence because there is still one existing which hasn't been moved out. I think you are talking of a period of six or twelve months, an overlap. I don't know whether some condition could be put there at the Committee Stage to remedy that because I am afraid that the Licensing Committee will find itself with somebody who has just acquired premises applying for a licence and the Licensing Committee will be told: "Yes, but there is already one in existence there." I have had this experience where it happened and I said that we had actually taken over and that the other party would be moving his licence out. I think that is a practical thing, I think you need a transition period but we agree with the principle that you shouldn't have two licences, people shouldn't be able to just have a licence attaching to premises which they are not using, they should have everything in one licence. On shipping agencies we agree with regulating this business.

The only query I put is, is there a need for definition of what a shipping agency is because I think we have problems if we do not have a definition of a shipping agency. It seems to me a very vague expression. It may be that there is some clear definition of what is or what is not a shipping agency. That I leave to the Government to decide whether there should not be some sort of definition of what is a shipping agency. Possibly at a later stage it can be brought in if it is found to be producing difficulties but on the first point, Mr Speaker, I think there should be an amendment otherwise I think practical problems are going to arise for people who have paid valuable consideration for the acquisition of premises and they find that the other guy has not moved the licence out and they cannot do anything about it.

HON CHIEF MINISTER:

I think it is a good point but perhaps we could look at it from the other point of view. If licences are given in respect of trade in respect of certain premises and the tenant and licensee loses the premises as a result of a situation, should it not be the other way about, should not the protection be to the licence holder to hold the licence without premises for a while until he finds something else?

HON P J ISOLA:

That would meet the situation and I would suggest a period of time. There is another section that says if you don't use a licence for a year the Licensing Authority can give notice that they are going to cancel it. I am thinking of a period of 12 months, I think that would probably be the right time.

HON CHIEF MINISTER:

Once the premises are not there the licence should stand in cold storage until they have other premises and the other premises released rather than the other way.

HON ATTORNEY GENERAL:

Just one point, Mr Speaker. I see the practical need to cover the matter which concerns the Honourable Leader of the Opposition. I would just mention that the principle which the Bill contains is a discretionary one, in other words the Trade Licensing Authority does not have to decline to issue a licence because there is already a licence in respect of the premises. It is a ground on which it may

decline but is not obliged to. I think the matter needs to be looked at by all means but one thing that occurs to me at once is that it may be possible for the Trade Licensing Authority itself administratively to achieve the dovetailing, if you like, that has been referred to rather than to have to have a specific provision in the Bill to cover the point but, certainly, I will look at it from a technical point of view before the Committee Stage. The other point which was referred to was the desirability or otherwise of defining the term shipping agency". I think there are two approaches to defining terms in legislation. The principal Ordinance already, if I can use the word, avoids definitions. If one looks at the second schedule it talks of road contracting which is a word which may have grey areas on the boundaries and in this amendment I have adopted that approach at keeping it simple. I think my own advice to the Government would be to leave it that way for the time being as the Honourable and Learned Leader of the Opposition did contemplate as one possibility, leave it that way and if it works in practice well and good, if there are any difficulties we could look at them at a later stage.

HON A J HAYNES:

Mr Speaker I have a point which I would like to clarify and this concerns whether where there is already an existing licence in respect of premises the Trade Licensing Authority will be given the right to refuse the grant of a further licence. This means, for instance, that where in a business which requires no premises to speak of or arranges to piggy-back with another business so to speak, using their office facilities, they will not be allowed to have a licence and if so, what is the purpose then of this power for the licensing authority?

MR SPEAKER:

Perhaps this is a matter which can be dealt with at Committee Stage.

HON A J CANEPA:

I can explain that, Mr Speaker, when I exercise my right of reply.

MR SPEAKER:

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

HON A J CANEPA:

That was the point that I had intended to deal with, Mr Speaker. The Honourable the Attorney-General will look into the point of the practical difficulties mentioned by Mr Isola but I don't think that with the present Trade Licensing Authority that will in fact prove to be a problem having regard to the fact that they have discretionary powers because the rationale behind this amendment, the reason why they have recommended that the amendment be enacted, is that it has, I am sorry to say, become the practice in the case of certain solicitors offices to use that address on the application form in respect of six or seven applications. It is clear that from solicitors offices 6 or 7 different businesses cannot be run. The intention is to get at that and therefore because we are giving them discretionary powers I am sure that the present authority will view the practical difficulties mentioned by the Honourable Mr Isola in the manner that he would wish it to be considered. However, whether the Attorney General advises that in fact we should guard against the eventuality I don't know, that is a matter for him to advise me but that is the rationale behind it. 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 A J CANEPA:

Sir, I beg to give notice that Committee Stage and Third Reading of the Bill should be taken later in these proceedings, perhaps later on today.

This was agreed to.

THE TRAFFIC (AMENDMENT) ORDINANCE 1982

HON H J ZAMMITT:

Mr Speaker, Sir, I have the honour to move that a Bill for an Ordinance to amend the Traffic Ordinance (Chapter 154) 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 H J ZAMMITT:

Mr Speaker, Sir, I have the Honour to move that the Bill

be read a second time. Mr Spenker, under our existing Traffic legislation the Police may lawfully remove vehicles from roads if they have broken down or have been abandoned or constitute a likely danger of obstruction. After removal a vehicle may be detained and the expenses involved by the Police can be recovered from the owner. If necessary the vehicle can be sold or otherwise disposed of and the expense recouped from the disposal. In practice it is not always possible to remove a likely danger or obstruction. There are cases, for example, where a vehicle may be left in a time controlled parking place for a lengthy period of time in contravention of the time requirement, although there may be difficulty in proving obstruction of any particular user. The Bill would allow regulations to be made for the removal of vehicles who commit such parking offences whether or not they cause danger or obstruction. This is a common remedy in other countries and with the increasing pressure on parking resources in Gibraltar it is considered to be desirable for effective traffic control to be able to take such steps. Mr Speaker, in saying this I would like to stress that the Government would not wish to exercise such powers unnecessarily. For this reason, in drafting the proposed amendment, it has limited the power to remove and detain vehicles that commit parking offences only to offences committed in areas in which traffic signs have been erected warning people that there is a liability of removal. The Bill also curtails the existing power of removal in cases of likely danger or obstruction and in the same way a sign will have to be erected in the vicinity before a vehicle can be removed on such grounds. In cases of actual danger or obstruction of course it will be essential for the power of removal whether or not a warning is displayed. Mr Speaker, I think one of the main issues that one should look at is in the controversy that has invariably been brought up in this House over the parking-ticket situation. It was easy to see that if a vehicle was causing obstruction, and I mean obstruction in the true sense of obstruction and not likely to cause obstruction or even using a parking place which can be legally interpreted as causing obstruction by preventing another vehicle from using that part of the land, I refer to genuine obstruction cases where people indiscriminately park their cars in given areas where a physical traffic obstruction takes place. In these circumstances I have always argued that 1,000 parking tickets could be served upon it and the obstruction still remains and it serves no purpose whatsoever to serve upon it a parking ticket or for that matter a number of parking tickets if the obstruction continues. We are seeking powers to remove those vehicles from the road so that that obstruction is cleared. Secondly, of course, even under the old legislation there was the question of cars which could constitute a danger and I think it is fair to say it was timely on something that didn't occur that the Police should have had the powers to have removed a vehicle if anything suspicious was to be considered whether or not it was constituting an

obstruction so I think I will not elaborate on that particular issue any longer. The main point is that we are not giving the Commissioner of Police a blank cheque to remove vehicles which are parked in a no-parking area but that do not cause an unnecessary physical obstruction, we are not giving him the power to remove that vehicle impound it and charge the owner unless there is a sign displayed in the area. One can think of some that spring to mind for instance the area leading to St. Bernard's Hospital at the bottom of Governor's Street, it could well be an area, I am not saying it is going to be, but it could well be an area which could well be a tow-away area. Similarly in some areas where no waiting as opposed to no parking has been declared the essence of the no-waiting being because a vehicle in that area would cause obstruction could also be considered but I would also emphasise that Council of Ministers will want to ratify the areas suggested by the Commissioner of Police as tow-away areas. Mr Speaker, I cannot enlarge much more on that and 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 A T LODIO:

Mr Speaker from time to time I have come to this House with a number of question on traffic and parking. My interest on this subject must be well known by now, I personally welcome any measure aimed at controlling the traffic problem and at controlling the parking problem. However, in welcoming this Bill I have to make some reservations. There are some things which are not clear in my mind on this Bill. For example, I get the impression that this could very easily turn into a situation where only cars that are actually moving are going to be towed away, a car which parks on a double yellow line which is a no waiting line. Cars that are obstructing will be towed away and it would be easier to move those cars than cars that are left abandoned and derelict and we haven't quite finished tackling that problem. I think that problem is just as important if not more important than the problem of cars that obstruct. We must remember that these cars that are abandoned not only make Gibraltar untidy but they are a danger. There is the danger of children playing inside these cars, there is always a residue of petrol in the tanks and that could well be a serious accident. I am very concerned that that kind of obstruction be dealt with and I think we should start and finish the job. In Gibraltar we always seem to start a job and we never seem to finish what we have started. One of my worries is that with this

brand new piece of legislation the Police are going to go all out on cars that obstruct, cars that are left on a double yellow line and they get towed away and the owner of course who does use this car will pay the fine whereas the owner of a car that has seen better days and is left in a parking place for week after week with flat tyres, with a flat battery, he will be getting away with it and of course the reason why he will be getting away with it is because he is going to leave it where there is no time limit for parking. I notice the Minister said where there is a timed controlled parking place but are there any such time controlled parking places in Gibraltar? When I asked a question in this House about time controlled parking I was told that it was useless because merely moving a car six inches one way or the other meant that the car has moved. My idea in bringing the question to the House was at the time the garages that take on cars and pay a pittance for them hoping to sell them to some Moroccan who will dismember them and take the pieces to Morocco, who park these cars on the highway and leave them there sine die. If there were time controlled parking spaces all these cars would have to be moved and if they were not moved within a specified time they could be fined and then the garage would see that it would be more profitable for them to take on a car and possibly give the new buyer £50 for his car but at the same time throw it away, dispose of it straight away and not make use of the public highway as part of his open-air garage. Another thing that begs the question here is, have the Police got a pound that is big enough to house all these cars which will now be moved because they are in breach because on past occasions I have been told that the Police pound is too small. I don't know whether there has been some reclamation on the Police pound and we now have a bigger pound than we had before. Another question which springs to mind is who will actually do the towing away, will it be the Police or will it be a private concern as is the case at the moment with derelict vehicles? These are all questions which I hope that in due course will be answered. As I said originally, any legislation which aims at trying to solve this problem of parking and traffic I will welcome most thoroughly but again as in other pieces of legislation that are brought before this House, if the legislation is not going to be enforced then we might as well not bring the legislation in at all. I remember the legislation on vehicles that are abandoned inside private property, private areas. I brought a question to this House about some machinery and plant that had been abandoned in the property behind the Olive Grove and I was told in an answer to the question that unless there was a complaint from the public nothing could be done. Surely, if it is an offence it is an offence whether the public complain or not. Mr Speaker, I hope that during the course of the debate we will get an answer to these questions and we support the Bill wholeheartedly.

HON CHIEF MINISTER:

Mr Speaker, I would like to deal with one aspect of the matters raised by the Honourable Member because through another machinery of Government I keep a monthly check on the question of derelict cars. That is proceeding well in that last year over 1,000 cars were removed and dropped down the chute. So far this year, up to the end of June 445 cars have gone down the chute. The impetus cannot be kept up because the bulk have been disposed of in the first 1,000 and now it is a question of the police looking for them in highways and so on and any car that has been parked for too long a time is either because it has not been spotted which is not likely or because the new contractor who gets so much per car removed has not been able to remove it. We have problems with the skip at the beginning but the present contractor has got all the machinery possible and as he gets paid by result he is anxious at finding as many cars as possible to put down the chute. The Police are very anxious to get rid of these derelict cars except that in some cases they have to advertise in the Gazette in order to have the powers to do it and that takes time but otherwise the cars are being removed as fast as the contractor can do it and the contractor is anxious to do it as fast as he can because he gets paid for it.

HON A T LODDO:

If the Honourable Member will give way. He said there is a new contractor. Could I ask the Honourable Chief Minister was this put out to tender?

HON CHIEF MINISTER:

Oh, yes of course. I think the question of cost in this case has nothing to do with tenders but I was asked by somebody who had not got the tender why they had not got the tender and I found out that cost was not so important what was important was the element of machinery available for the quick removal of the cars. The successful tenderer has got the equipment.

HON ATTORNEY GENERAL:

Mr Speaker, there are two aspects of this Bill I would like to refer to. I would like to recap on the objects of the Bill. The law already, as the Honourable Minister has explained, the law already empowers the Police to remove cars which are either derelict or abandoned or which obstruct. The real point of this Bill is to extend that

power to enable them to move vehicles that commit parking offences. I would like to explain that a little more. A vehicle which parks may not be an obstruction but may cause real inconvenience, in other words, if you have an area where vehicles are allowed to park for a certain time or on payment of a certain rate, the object of that could be to make sure that there is a flow of traffic for the convenience of users of vehicles in town or in a given area passing in and out of that car park and so it may not be practical to prove in court that a vehicle which overstayed its welcome, as it were, was an obstruction and yet there may still be good reason why you wish to tow it away. Of course the Government has already made it very clear that it doesn't favour extending these powers unduly and so it is limited by the requirement that there must be a notice as the Minister said. I think it is also worth stressing the point that the same requirement is now introduced where it doesn't exist at the moment, namely, in relation to vehicles which are likely to obstruct or likely to be dangerous. On the point of whether there is any time controlled car parks it seems to me that that word has two meanings and I think the sense in which it is used in relation to this Bill is really in the case where you may have to pay to use a car park, it is time controlled in that sense and of course at the moment there aren't really any such car parks but that was the context in which the word was in fact used. I would like to speak briefly to one other point and that is the question of clearing derelict vehicles. There is one area in which at a technical level at least there have been proposals made to the Government to widen the powers to clear them because there is some technical difficulty in clearing away a vehicle if you cannot find the owner and therefore we will be submitting to Government for its consideration draft regulations to enable them to go ahead and do that even though the owner cannot be found. That is not a matter which requires amendment to the Ordinance as such as there are already powers in the Ordinance to make such regulations.

HON A J HAYNES:

Whilst reiterating my Honourable Colleague and Friend's statement that we welcome any measures which will improve the traffic problem of Gibraltar and we appreciate that this bill goes some way towards meeting the problems that we face today, we do feel that it is in one sense lopsided. Not on a drafting sense but this in traffic terms is the stick and it is a stick without the carrot. The carrot that goes with this stick should be a multi-storey car park in town and we feel that if you are going to come down like a ton of bricks on a car that is on a double yellow line and we have to go along with such measures

we nevertheless feel that if you can move on the drafting you can move on the building and you ought to by now have produced multi-storey car parks. I think that a great deal of the traffic problem which you are trying to meet and which we are all so interested in combatting is caused by the lack of parking space, obviously, it is not just wilful bad driving, it is the scarcity of car parking spaces that makes drivers go on to the yellow line. We agree that that is not in the interests of motorists and traffic as a whole in Gibraltar and therefore we support this Bill, but you must give them somewhere to park. We do need a multi-storey car park and the timing of this Bill therefore should be related to the introduction of a multi-storey car park. On the other point raised by my friend which is the physical limitations of the Police car pound. We would note that Government has made no reference to immobilising cars rather than throwing them away. I would like to know whether anyone has done any research on the advisability of immobilising cars which is done infact in smaller communities, islands and so forth. The effect is that where a car is obstructing or being a nuisance rather along the lines that the Attorney General points out where it is not clearly an obstruction but certainly it is not wanted. In those circumstances perhaps it would be more appropriate to immobilise the car and this is apparently done now with this sort of long armed clamp on the wheel and make the car totally unusable and it requires the driver to go to the Police Station or wherever, get the police to accompany him, unlock the car and pay the bill whereas for the Police all it requires is a simple exercise. It is not a costly operation which involves maintenance of tow-away trucks, car pound etc etc. I would like to know whether the Government has enquired into the advisability of these measures which would not be as harsh as throwing the car away and would therefore allow the Commissioner a certain latitude in which he can use his discretion and hopefully not hit everybody with a sledgehammer. As I say, we feel there is an element of perhaps cynicism in introducing a measure preventing you from parking without giving you somewhere to park and we would like to stress our concern at the delay incurred in providing Gibraltar with a multi-storey car park. Mr Speaker, on the point of drafting I wonder whether the Minister will have any information to give on when the drafting for EEC regulations will be brought in. My friend has been pressing on this side for measures of this sort for about two years now. The query I had on another matter is the specified fixed charges for the removal of vehicles or classes of vehicle under regulation made under the subsection. What sort of specified fixed charges are we going to find under the regulations? This lack of information obviously because the regulations haven't yet been made makes it difficult from our point of view to judge on the advisability of the immobilising arm as opposed to removal and I would like the Attorney General to consider if he has not already done

so, the advantages in certain circumstances of immobilising a car rather than towing it away. But most of all we don't want to see a stick without the carrot. If we are presented with the stick which is the necessary legislative measures, we would also like the carrot which gives the motorist somewhere to put his car and that therefore is the qualified measure of our response.

HON H J ZAMMITT:

Mr Speaker, Sir, first and foremost, in answer to the Honourable Mr Tony Loddio, the abandoned car situation has been explained by the Honourable and Learned the Attorney General. Yes, of course the Police will be towing away abandoned cars and people who abandon cars will find themselves very quickly with a bill to face. For long parking it is a different matter. That will have to be looked at very carefully. On the question of whether the car pound is large enough, well, Mr Speaker, I don't think the Police intend to go round picking up 100 cars a day. We have two pounds, actually, one down at the dockyard which the Police have which can take about 50 to 60 vehicles and therefore we expect that if a car is removed as a result of an obstruction the owner would go and pick it up probably within the same day otherwise it would become a garage. The Police will be towing away, they have a landrover adapted to tow away and I would say to the Honourable Mr Andrew Haynes that it is much cheaper to have a tow-away vehicle than having the immobilisation of vehicles which again would not serve the purpose we are trying to achieve and that is to move vehicles that are causing obstruction. If we immobilise a vehicle which is causing obstruction it does nothing to the good flow of traffic. The other thing that will happen, in the near future, Mr Speaker, is the MOT test that will be introduced in Gibraltar. As Honourable Members probably know the building is out to tender and that will keep off the road an enormous amount of dilapidated vehicles. On the question of specified fixed charges the Honourable Mr Andrew Haynes is right, it is by way of regulation, we are just getting the powers here and the fixed charge to be agreed to of course is a matter for the Government to consider. Mr Speaker, as to the multi-storey car park well yes, we would like to see a multi-storey car park but I am sorry to say that I didn't hear him say that it would also have solar heating on it. Mr Speaker, I think the Bill has been well received and I hope it does go through with everybody's approval.

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

HON H J ZAMMITT:

Mr Speaker, Sir, I beg to give notice that the Committee

Stage and Third Reading of the Bill be taken at a later stage in this meeting and if members agree, today.

This was agreed to.

THE HOUSE RECESSED AT 1.20 pm

THE HOUSE RESUMED AT 3.40 pm

THE CONTROL OF EMPLOYMENT (AMENDMENT) ORDINANCE 1982

HON MAJOR F J DELLIPIANI:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Control of Employment Ordinance. (Chapter 33) 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 MAJOR F J DELLIPIANI:

Sir, I have the honour to move that the Bill be read a second time. Sir, as can be seen from the explanatory memorandum this Bill has two purposes. Section 9 of the Ordinance as it now stands gives the right of appeal to any person aggrieved by the refusal of the Director of Labour and Social Security to grant unemployment permits, to extend the validity of a permit or to revoke a permit granted to an employer in respect of a non-residential employee. I don't think I need to take up this House's valuable time in explaining who is a non-resident for the purposes of the Ordinance. As permits are applied for and granted to the employer and not to the employee, it has been assumed ever since the Ordinance was enacted in 1955, that the right of appeal lies only with the employer and such very few appeals as there have been during these 27 years have all been made by the prospective employer. As the result of a recent case I was advised that the Ordinance gave the right of appeal to any person and that this has to be construed in a wide context and consequently includes an employee. This could not have been the intention when the Ordinance was first conceived as employment permits are applied for and granted to the employer. The purpose of clause 3 of the Bill is therefore to establish that only the employer has the right of appeal against refusal of the Director to grant or to extend the validity of an employment permit. The advice I have received is that there is nothing wrong with limiting such right to the employer in the case of refusal of a permit

and that whilst it may be rather hard in the case of refusal to extend, it can be argued that the employee knows at the outset how long the permit extends and has no entitlement to anything beyond that. However, in the case of a proposed revocation of a permit, a power which the Director has but which has never been exercised over the years, it is felt that the worker should be entitled to appeal and this is being provided for in clause 2. These two clauses, 2 and 3, introduce nothing new except what I have explained. As for clause 4 of the Bill, this merely increases to a realistic level the maximum penalties for contraventions of the Ordinance such as employing a non-resident without a permit as the present maximum of £25 hardly constitutes a deterrent any more. 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 J. BOSSANO:

Mr Speaker, I cannot agree that all that there is in the Bill is what there appears to be and I shall be moving a number of amendments at the Committee Stage. I do not accept the limitation on the rights of the employee to appeal against a refusal to grant a permit or to extend the validity of a permit. I accept what the Honourable Member has said that in practice it is invariably the employer that makes the appeal and I agree that it is preferable that the right of appeal should be limited to employers and employees and not to any person that they are aggrieved so I certainly support what I consider to be an improvement in the legislation in limiting that right to the employer and the employee but I cannot agree that the employer should have greater grounds for appeal than the employee and I would put it to the Minister that in fact although this legislation puts a limit on the length of time for which a work permit can be granted, it has to be remembered that a contract of employment can be made for an indefinite period notwithstanding the fact that the labour department will put a limitation on that contract of 12 months and therefore it doesn't follow that a person entering into a contract of employment with an indefinite period does not expect to work for an indefinite period because there is the contractual obligation that he has with his employer irrespective of the fact that the law requires renewal every 12 months. Another point that I think needs to be taken into account is the fact that as regards the unfair dismissal provisions in the Regulation of Wages Ordinance, refusal to renew a contract

that has been in force for 12 months constitutes a dismissal and it has to be understood that the fact that we have got two pieces of legislation enacted at different times in practice puts the employer in a situation where on the one hand he can be obliged to dismiss his employee by virtue of the Labour Department refusing to extend the permit and on the other hand he exposes himself to action from his employee for an unfair dismissal refusing to renew his contract. The third point is, of course, that the rights of employees who have contributed to social insurance and who want to remain in Gibraltar to seek employment and obtain unemployment benefit whilst they are seeking employment, has been tested once in court and the employee has established that right so again it cannot be argued that the man doesn't anticipate going to work beyond the twelve month period just because the law in fact requires that the contract should be effectively renewable every 12 months, which I support and which I think is a good thing because it gives the Government greater control over the number of people who are here, where they are working and so on and I think they should control that. But I cannot see that there are any compelling reasons why less opportunity for appeal should be given to the employee than to the employer. A third point is that while I take fully the position of the Minister that the law provides for the issue of a permit to the employer and not to the employee, in practice there is one factor in the operation of this system which is considered to be unfair by employees and that is that whereas at the moment we have got a quota system - this is not of direct relevance but it might be a matter which would come in an appeal, Mr Speaker, in the refusal to grant a permit, for example, which a worker cannot have at the moment and I am just saying it in that context although I think it is a matter that should be pursued, perhaps in the Manpower Planning Committee - and that is that a person who is working in Gibraltar in a particular trade can move within that trade whereas from the employer's point of view the restriction on the permit is within the quota system by industry. So if we have got a situation, for example, where you have got a carpenter in the construction industry, from the point of view of the employer he can be employed provided there are sufficient vacant permits for construction workers but the number for construction workers is irrespective of the trade that they exercise. On the other hand if the man wants to work as a carpenter within the Public Works, he finds that that is only possible if the public sector quota has got vacant permits. But if he is going to move, for example, from a carpenter to a chargehand because there is a promotion on his building site, he finds that although he is still within the industry, he is still within the quota, he cannot move because the basis of the permit is that it is given to him on the trade that he has. There is a logic which is accepted by the Trade Union Movement and that is that we could otherwise create a serious loophole in that although the permits are by industry you could have a situation where somebody

comes in because there are umpteen vacancies for electricians gets a permit as an electrician, and then subsequently changes jobs to being a labourer although there are unemployed labourers but he has got in through the back door. It is understood that it is for that reason but there could be occasions when people are being prevented from bettering themselves, from moving up the promotion ladder in their place of employment because of this limitation and I think in the refusal of a grant for a permit that sort of argument should be an argument that a workman should be able to put to a tribunal in defence of his being granted a work permit. This would not allow it because in fact he would only be able to appeal against the revocation of his existing permit in his existing trade. I think there are a number of grounds which I can think of hypothetical situations, which this would preclude and I do not believe it is the Government's intention to preclude that. I imagine that the main reason for this is to tidy up the situation where the law says "any persons aggrieved" and, presumably, that could theoretically be the next door neighbour. The other point that I want to make, where I propose to move a number of amendments, is in relation to the increase in the penalty. Let me say that I support fully the increase in the penalty, it is in fact a commitment that the Minister for Labour gave me in the motion that I brought to the House a few months ago and I am glad that he has been so quick in bringing the amending legislation to the House and I welcome this. But I think that quite frankly perhaps in trying to do a very quick job in bringing the legislation to the House he may have overlooked the extent to which the penalty is being applied because it says "any offence" and there are a number of offences in the Ordinance one of which, for example, is that if somebody loses his job he has to go to the Labour Department and hand in his work permit the next working day. I think it is nonsense to say that if a workman is not the next day in the Labour Department he gets fined £500 and I cannot imagine that that was the intention. Nor am I sure, in fact, that it is a maximum of £500 because as I read in Clause 18 in the principal ordinance, it says that any person guilty of an offence against this ordinance for which no penalty is provided shall be liable on summary conviction to a fine of £25 which will now be £500 but not to a fine of no more than £500.

HON ATTORNEY GENERAL:

"If the Honourable Member will give way. I can assure him that the words "liable to" mean that the court has a discretion up to the maximum of £500. More than that, in practice would be most unusual.

HON J BOSSANO:

I am grateful for that clarification Mr Speaker, certainly

I was having nightmares of all my Moroccan members turning up with fines of £500 in my office. I think it would be a useful exercise if we took this opportunity, perhaps, and I will let the Minister have a copy of my amendments I think at this stage so that he gives some thought to it, I think it would be useful if we took the opportunity of amending, in the principal ordinance, clauses 10 and 12. I can tell the House that this requirement in the law to my knowledge has never been implemented and I do not subscribe to the idea of keeping legislation on the statute book which we make no effort to enforce which is flagrantly being ignored by everybody. I think to have a law that says it is an offence to do this and now instead of the fine being £25 it is £500 and everybody is still going to be doing it and nobody is going to be taken to court or pressured about it is bad for the House of Assembly and is bad in fact for the sort of protection for the labour force that the Control of Employment Ordinance is intended to give. Therefore what I am suggesting is that we should be more realistic in the fine that we provide in section 10 where it says that it is an offence for an employer not to return to the Labour Exchange the permit of a workman within seven days of his having terminated employment. I don't think it is realistic that he should do it within seven days and I am suggesting that it should be a month which I think is more realistic than we keep the new clause by the Minister saying that he can be fined up to £500. But I think that we should give people a month and then that we should enforce the law rather than give him a week and allow them to take a year to do it which is what is happening nowadays. Similarly, I suggest that in the case of somebody who has been absent from work for seven working days, that also should be a month. It is totally unrealistic to say, and I am trying to say that that clause has been completely ignored by employers and that the Department has made no effort to enforce it because it would have created untold difficulties. The Government itself, let me say, ignores it completely because there are more than one occasion, and this is particularly so with the immigrant workers, with Moroccan workers in particular, and they disappear from Gibraltar and you hear about them one or two weeks later. According to the law, the employer is supposed to sack the person within three days of his having disappeared for seven days. If that happened I can assure the House that we would have created enormous difficulties quite apart from whether that is a valid reason under the provisions for unfair dismissal which is another issue which I haven't looked at but certainly one can well imagine the aggravation that that would cause. I think it is desirable that employers should put a limit to how long somebody is away from work and that the law should require them to do it if they don't do it of their own volition. Therefore I am suggesting just like we give the employer a month to hand in the work permit when somebody enters his employment, we should also require the employer to notify the department if a workman has been away for a month, because one of the

difficulties in the Manpower Planning Committee effectively is that at any one point in time it is very difficult to have realistic and accurate information as to how many of the work permits that there are in issue actually represent people continuing to be physically present in Gibraltar and part of the labour force. Therefore I think these sections of the Ordinance need to be tightened up in order to provide the Manpower Planning Committee with more accurate information so that we know that if there are 1,000 permits in issue there are 1,000 people in employment. With the present situation we do not know that because nobody is enforcing the law. I am suggesting that this is a useful opportunity to make the requirements more realistic than they are today and then for the department to go ahead and ensure that they are enforced. The third amendment which is the one that I made reference to before, where a workman has to hand in the ID card, the next working day, well, obviously, Mr Speaker, it just never happens. It is unknown to me that any workman has ever gone to the employment exchange within 24 hours of losing his job and therefore I am suggesting that that particular clause should be amended in two ways. (1) by extending the period from one day to a fortnight and by putting a limitation in that particular case of retaining the maximum fine of £25. I think that we cannot realistically say that the maximum fine for not handing in the Identity Card is £500. It seems all out of proportion to the nature of the offence so I am suggesting that the present penalty of £25 should be retained for this particular offence, that the time limit given to somebody to hand in the I/D Card should be extended from one day to a fortnight and that the department should, in fact, ensure that it is being complied with. I would pass on the amendment, Mr Speaker, so that the Government can have some time to look at them before we come to the Committee Stage.

MR SPEAKER:

The Committee Stage of this Bill is not being taken at this meeting. Does the mover wish to reply?

HON MAJOR F J DELLIPIANI:

Sir, I have noted carefully what the Hon Mr Bossano has said. Some of the amendment that he is suggesting make sense to me because in practice we do not comply with some of the laws because we find it convenient for both sides not to do so but I am loath at this moment to change the question of the right of appeal to employee on the initial contract because the contract is still only an intention of employment and we can get into all kinds of problems if the Labour Department quite legitimately has the right to say to that employer; "I am sorry, but your contract cannot be accepted", and three months later the

employer appeals for it and what do we do, do we force that employer who has already got somebody else to re-employ that chap or do we sue the Director of Labour for using the power wrongly? On the initial contract I think I must maintain my attitude that the right of appeal must be from the employer only who is the one who is anxious to get the permit for his employee.

HON J BOSSANO:

Will the Honourable Member give way. This will be on new entrants. I can see the point as far as new entrants are concerned, Mr Speaker.

HON MAJOR F J DELLAPIANI:

The initial reaction from an employer who is applying for a permit and the Director finding grounds to refuse to grant that permit the right of appeal should only be for the employer because that was only an intention of employment and not a contract itself. I will consider the question of the extension because as we all know most companies do not specify any time limit but the Department of Labour in an effort to control the labour, puts a time limit to it. I think there is a valid reason for that time limit in that within that time limit we might have a situation where we have local people willing to step in and do those jobs. I grant you that because there is the element of the social benefit for unemployment, the man has the right to be registered as unemployed and to get paid the unemployment benefit but I think we could get ourselves into a situation where we have Gibraltarians coming in into the different trades which are not normally taken now by Gibraltarians and because we cannot revoke those permits at all we are going to have Gibraltarians unemployed and aliens in employment. The Government are not taking the right from the employee to get his unemployment benefit or to try and move into another industry if there is a quota because even as a carpenter you still work for the construction trade and if he wants to move from the construction trade if there are permits for a carpenter in the hotel business in the maintenance you can still move with that trade to the hotel industry. I think we have to have that right because we are not thinking of the present, we are thinking of the future. I am trying to protect the Gibraltarians in the future and I do not want to spell it out. I sympathise with the way Mr Bossano is thinking but we must have that right. We are not taking the right of unemployment benefit from the employee and I think that Mr Bossano knows that we have been very lenient in the time that they check in, etc. I think there is a fairly good relationship with the Moroccan labour force and I think we do listen to the complaints of our foreign workers. I think my Department does try and cooperate fully with

the Union and with the Moroccan workers as industrials but ultimately we have to think that there might be a situation when we might have to cancel all foreign permits.

HON J BOSSANO:

If the Hon Member will give way. We are not doing anything to change that provision, what I am saying is that the person if in fact he could not do what he says he wants to do there would be no point in providing a right of appeal. I am not saying let us take away the right of the Labour Department to cancel a permit or to revoke it or to refuse to grant it. All I am saying is that just like you have got the right to refuse to grant it, the person who is refused should have the right to appeal against that decision because it might be a mistake that he has been refused the permit or it might be a personal vendetta, it could be one hundred and one things. I am not saying that we should amend the legislation to take away the right of the department not to grant the permit, all I am saying is that if you can give an employer the right to appeal against the department, why shouldn't the employee have the same right as the employer? I accept the point that is made that that right cannot be extended to somebody before he starts working in Gibraltar. Where an employer is asking for a permit to bring somebody new from outside Gibraltar, then I think if he is refused that and he has a right of appeal which the Government is giving him, that is fine, I am not saying the employee in India should have the right of appeal about a refusal in Gibraltar; I am not saying that, I accept that point, but once an employee is here if that employee wants to change jobs, for example, and the permit in his new job is refused by that Department surely the employee should be able to go to somebody and make a case why he has been 20 years in Gibraltar and he wants to get promotion to do better in life and he shouldn't be all the time condemned to being a labourer. That opportunity we are denying with this and this is the point I am asking the Government to consider.

HON MAJOR F J DELLAPIANI:

Mr Speaker, I will consider the points made by the Hon Mr Bossano though I may not agree with them.

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

HON MAJOR F J DELLAPIANI:

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

of the House.

THE INTERPRETATION AND GENERAL CLAUSES (AMENDMENT)

ORDINANCE 1982

HON ATTORNEY GENERAL:

Sir, I have the Honour to move that a Bill for an Ordinance to amend the Interpretation and General Clauses Ordinance (Chapter 79), 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. In Gibraltar, standard time is determined annually by the Government under the powers conferred on it under Interpretation and General Clauses Ordinance and for many years it has been invariably one hour in advance of Greenwich Mean Time. There is no reason at the moment to think that it would deviate from that in the future. In Order to avoid having each year to publish a legal notice prescribing the standard time for the year, the purpose of this Bill is to amend the Ordinance itself to say that standard time in Gibraltar will be one hour in advance of Greenwich Mean Time but the possibility of the Government deciding that it may be convenient to change that is retained so that while that would be the normal rule the section will retain a discretion on the part of the Government to fix some other time either ahead or behind Greenwich Mean Time, as may be appropriate. That is the point of the Bill and I commended 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 T LODDO:

Mr Speaker, we on this side of the House welcome this Bill. For the last two years, I have been asking the perennial question on whether Government was prepared to introduce summer time as it is popularly known. The fact that we know have it and the fact that it is working admirably and

that everybody seems to be happy and all the problems which seemed unsurmountable last year and the year before seems to have vanished like a summer mist, we are very glad that the extra hour seems to have acquired a permanence and we certainly do not see any reason why we should revert next year to the time we used to have up to now and we sincerely hope that this becomes a permanent feature and that those in the private sector who up to now have not been able to enjoy summer hours at least have the small consolation of summer time.

HON W T SCOTT:

In fact, Gibraltar, as I understand it, has always been one hour ahead of GMT which is what the Bill says. On that basis it really has nothing to do with being British Standard Time or being one hour of British Standard Time. Can I therefore ask the Government if it is their intention irrespective of whether the frontier opens or not, now or in the future, to maintain that which they have introduced this summer of being one hour ahead of BST?

HON CHIEF MINISTER:

We will make a statement. Double Summer time comes to an end some time early October. Having regard to the experience that we have had this year, when we come to consider what happens this year, even if there is power to do so without having to come to the House, we will come to the House and say it so that the matter can be discussed.

HON A J HAYNES:

I hope that when the Chief Minister comes to the House with the information or the decision of Government it will be possible for this House to debate it if it is not favourable in the opposition view.

HON CHIEF MINISTER:

Mr Speaker, I think that goes without saying. I am not going to say it the day before. Normally, those matters are brought up by the administration early in the year.

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

HON ATTORNEY GENERAL:

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

This was agreed to.

THE PETROLEUM (SOUTHERN RHODESIA) (REPEAL)
ORDINANCE 1982

HON ATTORNEY GENERAL:

Sir, I have the honour to move that a Bill for an Ordinance to repeal the Petroleum (Southern Rhodesia) Ordinance (Chapter 176) 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 now read a second time. Sir, as Members will see, this is an extremely small bill. This is really the first item that has come up in the reprint of the laws of Gibraltar exercise. The Commissioner became aware that this was something that we do not really need any more. Members may recall that what this Bill did was to require a licence for the supplying of petroleum to Southern Rhodesia and this is no longer appropriate. 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?

There being no response Mr Speaker then put the question which was resolved in the affirmative and the Bill was read a second time.

HON ATTORNEY GENERAL:

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

This was agreed to.

THE SUPPLEMENTARY APPROPRIATION (1982/83) ORDINANCE 1982

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that the 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 £1,907,850 out of the consolidated fund. The purposes for which this sum is required are set out in part I of the Schedule and detailed in the consolidated fund schedule of supplementary estimates no 1 of 1982/83, which I tabled at the commencement of this meeting. The Bill also seeks to appropriate, in accordance with section 27 of the Public Finance (Control and Audit) Ordinance, the sum of £205,121 from the Improvement and Development Fund. The purposes for which this amount is required are set out in Part II of the Schedule to the Bill and are detailed in the Improvement and Development Fund Schedule of supplementary estimates No 1 of 1982/83 which was tabled at the commencement of this meeting. Sir, in my speech on the Finance Bill in May this year the Government gave notice that it proposed:-

- (1) to continue for a further year the special water subsidy to hotels and shipping by way of a refund of 10p to be paid on settlement of bills within 30 days of their issue the estimated cost to the consolidated fund for 1982/83 was £99,000 - hotels £73,000 and shipping £26,000.
- (2) A special electricity subsidy to hotels for one year equivalent to the proposed increases in the tariff at an estimated cost of £100,000.

(3) Government contributions to:-

- (a) The Electricity Undertaking Fund of £319,800
- (b) The Potable Water Service Fund of £96,900
- and
- (c) The Housing Fund of £1,280,400.

At the same time the Government indicated it's intention to seek supplementary appropriation at the next sitting of the House to cover the intended subsidies to hotels and shipping and for the budgetary contributions to the funded services. Meanwhile, these proposed contributions have been reflected in the Financial Statement at page 5 of the estimates of Revenue and Expenditure for 1982-83. They total £1,896,100. In effect all but £11,750 of the £1,907,850 to be appropriated from the consolidated fund are for the purposes specified at the budget meeting of the House. Some £100,000 or slightly less than half of the amount to be appropriated from the Improvement and Development Fund is required for revotes from the 1981-82 estimates of expenditure. Mr Speaker, 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 P J ISOLA:

We will deal with the items, of course, in the Committee Stage of the Bill. Could I just pass one very general comment. In the consolidated fund we are going to appropriate £1.9m. Most of the items were approved at the budget as far as I can see. Haven't we voted this already?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, Sir, if I may on a point of elucidation. The amounts are not approved in the Estimates, they are shown at page 5 of the Estimates as proposed budgetary contributions but those amounts are not reflected under the budgetary contributions in the actual estimates and so it is now necessary for us to vote them. This is a new procedure because the Honourable and Learned the Leader of the Opposition will remember at one time the Government in the Chief Minister's speech on the Estimates of Revenue and Expenditure would give an indication of the budgetary contributions and we voted them at the time we were putting through the Estimates. This year we gave no indication

until the Finance Bill and then we gave notice that we would be taking supplementary provision at this next meeting of 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.

This was agreed to.

SECOND READING

THE BANKING ORDINANCE 1982

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that the Bill be now read a second time. Mr Speaker, Sir, the Bill now before the House is one of a series of measures which the Government intends to put before the House during the rest of this year and the early part of 1983 which will improve the facilities that Gibraltar has to offer as a finance centre. I think that the pre-requisite for a successful finance centre are in the main (1) the legislative ground rules against which international organisations can operate and to an extent our legislation has got somewhat out of date it has served us well but it has got out of date and there is a need to bring it up-to-date. Secondly, good communications, travel, telephones and telex; thirdly, the concomittant professional skills. At the upper management levels in certain specialised areas such as banking, skills can often be brought in during the establishment phase but there must be and thankfully we have a solid framework of the other professional skills, both legal and accountancy which are required. Again, office and residential accomodation is necessary for a successful finance centre and this we need to develop and for that we need to attract funds into Gibraltar and to attract those funds we must set the right fiscal climate and we began to move in that direction in the Finance Bill this year. Finally, and I think possibly most importantly, there must be political and economic stability and this, I am sure, we have. Sir, there is, if I may just mention in talking generally on Finance Centre activities, a Finance Centre Group which has been set up by the professions which have regular meetings with the Government. They put forward the proposals of changes or

for improvements which they would like to see, the Government receives them and considers them and we thrash out these proposals and the Bill is one of the first measures resulting from those discussions. The present Banking Ordinance, the 1956 Ordinance, has served Gibraltar well over the years but it is now completely out of date. In recent years there has been an expansion of international banking activities with a consequential move to develop cooperation between national supervisory bodies. Such cooperation is necessary to enable national supervisory bodies to take a consolidated view of the activities of banks whose operations transcend national boundaries. The general proposals for cooperation which have been put forward by the major countries in the banking field have been broadly endorsed by all national supervisory authorities, including those in the major offshore centres who have their own small group. An essential ingredient in these arrangements is that information on banking activities must be treated with the strictest confidence and kept in a tight circle by a host or the parent supervisory authorities and it certainly must never be divulged to any other part of the Government or to tax authorities. This is the setting in which Gibraltar is attempting to improve the facilities it offers as a banking centre. In preparing legislation of this kind, and I speak now not merely for the banking legislation but for any legislation relating to a Finance Centre, Gibraltar must keep abreast of international trends and in doing so we must think through what is best suited to our own requirements so that whilst we meet international standards and foster confidence in Gibraltar we have got legislation and procedures which are suitable to our own particular circumstances. In recent legislation which the Government has brought to the House, and I am thinking here of the Bureaux de Change and the Development Aid Ordinance, there has been a reflection on an important change of thinking in the preparation of legislation and that is that the criteria against which applications will be considered are set out in the legislation so that anyone who is applying for a licence, permit or a permission of any kind knows the criteria against which their applications will be considered. And, secondly, that there should be an appeal procedure so that a person whose proposals are not accepted has the right of appeal against the refusal to grant a licence. This basic philosophy in the drafting of important legislation is fully reflected in the Bill now before the House. Sir, there is one rather difficult area that we need to keep very much in mind when reviewing finance centre legislation and that is the implementation of EEC Directives applicable to Gibraltar. There is at present a small committee, comprising the three political parties represented in this House and with other groups called in as necessary, which is studying how best to protect Gibraltar's interests consequent on Spain's entry into the EEC, with particular reference to employment, trade and the economy generally. The conclusions of this group are to be referred for expert

study and advice. Meanwhile, in framing its legislation, the Government must take account of community directives. This is the case with the present Bill. Fortunately, I can assure the House that there is no difference between the requirements of the EEC directive on banking and the legislative and supervisory framework we would wish to establish in order to achieve international recognition as an acceptable offshore banking centre with its attendant benefits to the economy. Subject to the Bill passing through all its remaining stages at this meeting of the House, the Government intends that it should come into operation on the 1st of October 1982. Before this can be done we shall need to set up the necessary administrative machinery for supervision including the recruitment of a banking supervisor. I think that the importance of that post of the banking supervisor is fully brought out in the Financial Times of the 5th of July, 1982, where a United Kingdom island which is also setting up as a finance centre has had troubles with banking and one of the first steps that they are now taking to put their house in order is to employ a banking supervisor to assist them in their work. The Bill offers extensive protection to depositors and for that reason it has been necessary to spell out in some detail what is meant by a deposit and a deposit-taking business. The actual control is over the acceptance of deposits in the course of carrying on a deposit-taking business. The proposal is that the Ordinance should be administered by a Commissioner of Banking helped by a banking supervisor and a banking advisory committee. Whilst private individuals are eligible for membership of the committee it is proposed that it should comprise initially of officials. All appointments will be made by the Governor and will be published in the Gazette. The Government welcomes the recent formation of a Gibraltar Banking Association which should provide a useful channel for the exchange of views between officials and banks collectively. In addition, of course, the Commissioner of Banking and the Banking Supervisor will be in close touch with banks individually. I would like to take this occasion to thank the Association and all other respondents who have put forward views on both the initial drafting proposals and the draft bill. Some of the proposals are reflected in amendments that will be tabled immediately after this speech, others will be met by administrative action or regulations. It is not intended that the advisory committee will normally see confidential information provided by banks. Such information will be tightly restricted. Members of the advisory committee will need to see full particulars concerning applications for licences in order to protect applicants against any arbitrary treatment. Thereafter the committee will only need to see such limited information as is necessary for the proper consideration of any matters that might be put before them. Sensitive information provided in banking returns will only be available to those immediately concerned with banking supervision. It will certainly not be available to any

other public officers. I should like at this juncture, Mr Speaker, to emphasise that both the Banking Commissioner and the Banking Supervisor will be bound by the secrecy provisions of the Bill. It is proposed that there should be two main classes of licences: a Class A and a Class B licence, each of which may be either "full" or "limited". Class A licences can take deposits from anyone; Class B licences will only be able to accept deposits from non-residents, from holders of a Class A licence or from persons that may be specified in an order made by the Governor. The criteria for full licences is set out in clause 26 of the Bill. In essence full licensees must be businesses of substance and reputation, having a minimum paid up share capital and reserves of £1m. A lower capital requirement is allowed, transitionally, for existing banks. In general only full licensees will be able to call themselves banks. There will however, be a place for smaller deposit-taking institutions which will only require a minimum capital and reserves of \$250,000 for which limited licences will be issued. These could be institutions wishing to conduct only a limited kind of business in perpetuity, for example, consumer instalment credit or they could be institutions wishing to start a deposit taking business as the most useful way of developing into a full licensee later on. It may be though that the minimum capital requirement of £1m is too high and that it will make it difficult for a new local bank to be set up. Banking, Sir, is not like other businesses in its capital needs. Capital in banking provides a cushion against loss. This is necessary for the protection of depositors. It is also important to look for a serious commitment from applicants to new banking ventures and the figures being prescribed for full and limited licences are the smallest considered acceptable in today's circumstances. Unfortunately our figures for inflation in Gibraltar don't go back to 1954 but they go back to the early 1970's and the pound of 1974 I think it is, is worth about 25p now, it is about four times the value. If you go back to 1954 I think one would find that the £125,000 capital which was then required is not very far from the £1m we are now seeking for a full banking licence. The procedure for obtaining licences is set out in clauses 20 to 24 of the Bill and the criteria for granting licences in clauses 25 to 28 inclusive. The arrangements for the determination of applications and for the issue of licences are set out in subsequent clauses. If it is intended to refuse an application the applicant must be given reasons and he has the opportunity to make representations with, eventually, a right of appeal to the Governor. In considering and determining an application for a licence the Commissioner for Banking will have regard to:-

- a. the protection of depositors;
 - b. the protection of Gibraltar's financial reputation
- and

c. the economic and financial stability of Gibraltar.

Prospective licensees must meet the minimum capital requirements from the outset and satisfy the other criteria. Where necessary enquiries will be made from supervisory authorities in other countries or from banks regarding the reputation and standing of applicants. In the case of newly incorporated institutions the reputation of the promoters and their experience in similar ventures will be taken into account. For a new local subsidiary of an overseas bank the reputation of the parent bank will be an important consideration. Licence fees will be prescribed by regulation. The original intention and I think that the Honourable Members opposite will have seen this in the drafting instructions was to have fees of the order of £10,000 for a full licence and £3,500 for a limited licence with additional fees of £1,000 for each branch. The Government considers that these are much too high and are considering lower figures. Furthermore there will be no separate licence fee for branches. Consideration is also being given to ways and means by which the tax disadvantage experienced by domestic banks vis-a-vis offshore banks in relation to offshore activities can be reduced. Mr Speaker, Part V of the Bill deals with the duties of licensees and amongst other things imposes restrictions on other types of business they may carry on apart from banking. The intention is, Sir, to prevent banks from engaging directly in trading activities for which different attitudes and skills are likely to be required from those needed in banking and where different risks are involved. This of course does not mean that where a separate organisation with the necessary skills is interposed between the bank and the business that the bank cannot participate through that separate organisation in other business. The powers provided under this part of the Ordinance are meant to facilitate prudential supervision by the Banking Supervisor which he will base on statistical returns. The exact form of these returns will be decided following discussions between the banking supervisors with the banks themselves. Our supervision will depend largely on personal contact between the Banking Supervisor and licensees with regular discussions based on the information provided. Part 7 of the Bill deals with the cancellation of licences, the grounds on which this may be done, and the procedures to be followed. Licensees concerned would have an opportunity to state their case. Cancellation would be the ultimate step in the case of a failing institution. There is in Gibraltar no lender of last resort and every effort will be made to avoid cancellation through the issue of directions, including directions requiring the appointment of a competent person to advise the licensee on the conduct of his business. Part 8 of the Bill provides for appeals against decisions of the commissioner including cancellation of a licence. Where the appeal relates to a matter of policy, the appeal will be determined by the Governor. All other appeals will be

determined by the Supreme Court. Part 9 of the Bill contains a number of miscellaneous provisions necessary for the administration of the Ordinance including the creation of offences. It restricts the use of the word "bank" and "trust" and provides for the winding up of licencees by the Supreme Court on application from the Commissioner. It also enables regulations to be made. Finally, Sir, there are transitional provisions. These provisions cover persons who are lawfully carrying on banking and deposit taking businesses immediately before the Ordinance comes into operation. Such persons will be deemed to be licenced for a period after commencement of the Ordinance which if they apply for a licence under the Ordinance will last until their applications have been decided. As I mentioned earlier, such institutions may qualify for a licence even though their capital and reserves may not meet the requirements for new licencees. Mr Speaker, I have only touched in general terms on the policy thinking behind this legislation. There will doubtless be a number of points on which Honourable Members will seek clarification both in this debate and in more detail at the Committee Stage. Mr Speaker, I would like to give notice of the Government's intention to introduce various amendments at the Committee Stage. With your permission, Sir, I would like these to be circulated to Honourable Members at the conclusion of this Second Reading debate. Sir, I commend the Bill to the House.

MR SPEAKER:

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

HON G T RESTANO:

Mr Speaker, it is 26 years since the Banking Ordinance which we have at the moment was introduced, and in the last few years world banking, generally, has changed to a very appreciable degree and it is about time that for the good banking name of Gibraltar, that the Banking Ordinance should be updated. I agree with the Financial Secretary that there is a necessity today more than ever to attract finance to Gibraltar and make Gibraltar a finance centre. And in updating the Banking Ordinance, we do give the support to the Government. Generally speaking, we agree with the general structure of the Ordinance but there are two areas where we do have reservations. I will take the second one first if I may. I will go first of all to Part 6 of the Ordinance on the supervision of deposit taking businesses. It seems to me that the powers granted under Part 6 of the Ordinance to the Commissioner and Supervisor are far in excess of the powers that one would expect to see in a Banking Ordinance today and certainly far in excess of the powers that exist today in Government. In other words, today,

if a bank has to give information about its depositors, the bank has to give information about the transactions that it carries out in this respect, it is my understanding that any person wishing to, for example, in the case of law officers, applications have to be made to the Court to get that information. In the present Ordinance, it would appear that the officer or Officers, the Commissioner or Supervisor appointed by the Governor may now go to a bank and require to inspect the premises, require to inspect the books, require to inspect all the relevant documents that may be in the keeping of the bank relevant to the deposit taking business and I question whether those powers are not perhaps rather over extensive. The Honourable Financial and Development Secretary mentioned in his contribution the provisions of secrecy under the Ordinance under which both the Commissioner, Supervisor, Committee, etc., the officials, would be bound. Perhaps I have not read the Ordinance with too much scrutiny but I do not seem to see where in the Ordinance there is this provision for secrecy. As far as I can see, the Supervisor or Commissioner is entitled under the Ordinance to go into the bank but there does not seem to be, as far as I can see, Mr Speaker, anything, here which says that the information that he obtains, that the information that he sees, is required to be kept confidential. There seems to be no requirement either, as far as I can see again, on either his Deputy or the Members of the Committee. I think, that if we are to attract, and I think this is one of the prime purposes of the Bill, to attract finance, to make Gibraltar a finance centre, I think one very important factor has to be confidentially and secrecy. I cannot see people coming and making use of Gibraltar as a finance centre if they think there is any possibility of their operations not being confidential, or the possibility of that information being divulged. It is, I think, an important implication. There are wider aspects of the Bill which are going to be commented on by my colleagues in a moment but one further point that I would have to make on this is on the administration, Part 3 of the Bill, and that is Section 12. I wonder on the advisability where the Commissioner is for a reason unable to meet in consultation with the Committee, that he can appoint his Deputy. Surely, that sort of appointment for such a sensitive post if it were required to be appointed, should be done by the Governor and not by the Commissioner. The last point I wish to make, Mr Speaker, is on the composition of the Committee. We have been told that the Committee of three is to be appointed by the Governor, and it can really consist of anybody. But, initially, it is the intention for the Committee to be made up of officials. So this to be on a permanent basis, is it on a temporary basis, is it intended that in a certain period of time the officials give way to appointed members who are not officials? I think we should know exactly what is really meant. Is it the intention that officials will continue for a long, long period of time, or is it the intention that the officials should be kept up for a period of a year of 6 months or what have you, and then persons who are not officials are going

to be appointed in the place of the officials? I think it is important because, after all, the information that would be available to this committee may well be of great importance and I think we should know exactly who is going to be liable to have access to that information. I think for the time being, Mr Speaker, those are the points that I wish to make as an introduction to the Bill and perhaps at a later stage the Honourable Financial and Development Secretary would be able to give us some answers on those particular points.

HON P J ISOLA:

Mr Speaker, in the introduction by the Financial and Development Secretary to this Bill, he did refer to the various studies that are being made and carried out and are in existence in relation to building up Gibraltar as a finance centre and I suppose a Banking Ordinance that puts at least the situation of banking on a proper footing is to be welcomed. But, Mr Speaker, I would like to echo a lot of what the Financial and Development Secretary said at the beginning of his opening speech and that is the need to build up the reputation of Gibraltar and its ability to grow as a finance centre. The finance centre aspect of the Gibraltar economy is not necessarily of tremendous significance in the whole set up of Gibraltar but if built up properly and speedily to take advantage of what is happening in other parts of the world, in other tax havens, I think it could make quite a significant contribution to the economy of Gibraltar and could provide in certain areas, clerical grades especially, increased employment opportunities and so forth. Therefore, Mr Speaker, I feel bound to say that we must move with a little more speed than we are in fact moving because the idea of a new Banking Bill if I remember rightly, a Banking Bill of some sort was produced, I believe it was in August 1981, or even earlier still. Anyway, I saw one some time ago, and I think there is a need to give rather quicker consideration to other matters to improve the position of Gibraltar. There seems to be a lot of interest in Gibraltar, Mr Speaker, but I think it warmed quite considerably at the time of the Falklands dispute, people started getting worried about Gibraltar, but, now I think the interest is coming back again. I think we have to provide an efficient service if we are going to have a finance centre in Gibraltar, we have to provide, really, the sort of efficient service that I believe is provided in Jersey, in the Isle of Man and so forth, and I would just like to mention a few areas in which I think there is room for improvement. I would first of all, talking from personal experience, refer, Mr Speaker, to the registry of companies in Gibraltar. The problems are seen to be, for example, in obtaining name approval for companies. The delays there seem to be the certain amount of red tape there is in the matter.

I find people get terribly irritated. I don't mean us, we are used to it, we get used to everything, but people from outside seem to get irritated. They ask for the name and you tell them, "Oh, we don't know anything yet," and it takes 15 days very often to have a name approved and then what happens is that they go elsewhere. Gibraltar is too slow. This is happening constantly and I think this is beginning to affect the situation. I don't know what I can suggest to accelerate name approval but what I can say is that, for example, in the United Kingdom as far as I remember now, name approvals are almost automatic now, in the sense that they leave it to people who find a company has been incorporated with the same name to make objection. I don't suggest we should do that in Gibraltar because I do think it does create quite a few problems, but in England that is what they've done and then as there are powers in the Company's Act to make a company change its name, that is the procedure people follow. But I think there is a need for the Registrar. I am not talking about the man holding the post, the registry to be a little more liberal in the acceptance of names and not to look around half the world to find out if there is a company with the same name. A lot of work is put in what I think is probably unnecessary. I do not know the reasons for it, all I can say is that from my experience I get constant complaints of the time it takes to approve a name. It may seem a silly thing but that is the beginning, the beginning of the process. It is where people first come into contact with Gibraltar. They get hold of a Chartered Accountant or a lawyer or a bank or anybody and say: "We want a company, we could like this name," and then everything stops dead for 15 days. Unfortunately, Mr Speaker, with the existence of telex, people can get the thing in one day and they expect the thing to happen the next day, and it doesn't. It takes 10 to 15 days and possibly longer. I think something should be done to accelerate that process. I think it would help the building up of the finance centre image. There are other matters that could be hurried up in this respect, Mr Speaker, but I think this is the main one, this is the main source of complaint from people from outside. I haven't been myself in touch with the Committee of the Finance Centre, the Consultative Committee, I went to the first meeting and I had minutes and all that. I haven't been in touch with them, but I was very glad to hear the Financial and Development Secretary say that we will be getting legislation on what is being discussed with them over this, during this year. I have made a few enquiries before coming here and taken ideas from people, apart from my own experience. I find a lot of support for allowing Part 9 Companies to become exempt companies, Companies that are actually registered in some other jurisdiction and because they are carrying on a business in Gibraltar, they have to register in Gibraltar as an overseas company a Part 9 company, there seems to be a lot of support for the idea that if provision was made to enable such companies to register as exempt companies, a lot of them would in fact do so and that the revenue increase in tax to Gibraltar would be quite considerable.

This, incidentally, I heard from quite a prominent banker in Jersey who told me that the modern idea seems to be that you register a company in one place, you manage it in another and there was a third one, and you do something else in another, I can't remember what it was. Or you hold your investments, something like that. Anyway, it seems sense to me, Mr Speaker, what I was told, and perhaps we should do something about that. Another area of which I know a little more about is the question of yacht companies, yacht ownership companies. Unfortunately, for some reason or other, the French Government put on a tax on yachts registered in Gibraltar or owned by Gibraltar companies. I might add, also, Liberia and Panama, we were bracketted with that sort of people but that practice is quite substantial it is three French Francs a day per tonne of the yacht if the yacht is in any port in France and most yachts, the richer yachts like France because the Cote d'Azur is still more pleasant than any other coast and yachts have just moved out of Gibraltar, they have moved to Jersey or Isle of Man who do not get taxed in this way and so that for a lot of people in the tax haven business, or looking for tax havens, they wonder why it is that you can have your yacht registered in Jersey or the Isle of Man or Guernsey and not in Gibraltar and that puts question marks in their minds and I think that is a very unfortunate thing that has occurred. Only a few minutes, I was stopped by a lawyer and he told me of the serious problems some of his clients are having today in France with this. That is an unfortunate thing to have occurred because a chap who has got a yacht has got a lot of money and the man who has got a yacht in Gibraltar or registered in Gibraltar, it can be the beginning of other things. But, hopefully, I understand diplomatic steps are being taken to try and remedy that situation and I hope it is successful because quite apart from the yachts themselves, quite apart from that, it is the fact that Gibraltar cannot do everything that Jersey and Guernsey and the Isle of Man can do and that is not a good thing. The other point that has been brought to my notice, Mr Speaker, and in fact there was a question, it was brought to the notice of my Honourable Friend Mr Restano, is again the question of certification of officers of British Ships and the control from London under the Merchant Shipping Ordinance. I would not favour amendments to the Merchant Shipping Ordinance, that would affect safety requirements and all the other things that are catered for. Nor would I favour changes in the Merchant Shipping Ordinance that would allow a vessel to have any kind of certificated officer but I would favour, and I favour strongly, a change in the Merchant Shipping Ordinance that would allow certificated officers from any EEC country to be officers of ships. I might not hold the same views if Spain and Portugal were already in the Common Market, Mr Speaker, I think that pressure should be put on this because from the information I have, despite everything that is said in England about flags of convenience, I was present in a debate in the House of Commons where there was somebody

complaining about flags of convenience and the Secretary of State for Trade said that Britain was in fact one of the biggest flags of convenience, in fact 40% of total British registered tonnage is flag of convenience tonnage. So it is quite a sizeable part of business, this flag of convenience, and of course, Mr Speaker, the British Flag has a tremendous attraction because of the standards of British Registry and therefore a lot could be gained if Gibraltar could be given that little advantage, let me put it that way, over the Channel Islands and the Isle of Man now that we don't have any advantages in fact we have a loss, a minus sign on the yachts. I think that is something that should be pushed because I think it is reasonable to ask that certificated officers of EEC countries should be allowed to be certificated officers of British ships. A British ship doesn't mean a ship that has everybody in it British at all, that is not the case at all. All it means is a company whose principal place of business is on British territory, that is the definition. I know there is a new Merchant Shipping Act, but judging from what I saw of it, the consultative paper that I saw on it, I reckon, Mr Speaker, it is going to take a long time before it finds its way on to the English Statute Book because of the pressures of Parliamentary business in England and of course all the political pressures that will go round this particular subject. I would urge the Government to try and get dispensation, I think we have power under the Merchant Shipping Ordinance to propose a Bill to make the changes because the certification provisions are not in the Merchant Shipping Act but in the Merchant Shipping Ordinance, but I can see that because it is a British registry that we are talking about, there is a need for reference back, but I think there are good grounds for making a good case. Mr Speaker, another thing that is brought to my notice, and I am raising all those things in this debate, Mr Speaker, because it is all part of building up Gibraltar as a finance centre and I think as we are going into recess it is a good opportunity to make these points. The other point and this is a good opportunity to make these points. The other point and this is a more dangerous area, but definitely one that I think needs exploration. A lot of the business with yachts lies in chartering them for pleasure over the summer months and with the position in France which is very difficult, I believe in Spain I am told, and that is another big area for yachts now, lots of marinas and so forth, I believe in Spain you cannot charter a yacht unless the yacht itself is registered in Spain. So therefore no charter business is allowed from Spanish ports. Gibraltar has got two marinas, hopefully we may have a third, I don't know, and I think there is a great possibility of business in encouraging the yacht charter business from Gibraltar. People flying out to Gibraltar, picking up their yachts and going off. Mr Speaker, that sort of business is sold, as it were, outside Gibraltar, in Germany or France or Italy or wherever and the product is received in Gibraltar. People just fly, get into a yacht and go out. Obviously if those yachts are permanently

in Gibraltar they will be liable to Import Duty and if the Income Tax Office takes the view that the business is being carried out in Gibraltar, as probably it is I would have thought, then they would liable to tax in Gibraltar, 40% interest lost. I don't know whether a way can be devised of allowing exempt companies to deal in business of chartering, not selling anything from Gibraltar but allowing the yachts to be based in Gibraltar and selling from outside Gibraltar. I know it would require a very restricted licence so that it is really a genuine off-shore operation that we are talking about and not an internal operation which obviously should pay tax like everybody else does but I think it is worthwhile trying to do something in that direction because I believe from what I hear, I haven't actually any personal experience of this, Mr Speaker, but from what I hear Gibraltar could then become quite a formidable base for charters the marina being situated right bang next to an airport and at the entrance to the Mediterranean. People could pick up their yachts in Gibraltar and do a little Mediterranean cruise and this I think would be helpful. I don't think it would be possible to put conditions that the yacht had to be registered in Gibraltar because with the present situation in France that would again make it impossible, but an exempt company under certain conditions. Another area, Mr Speaker, and I think the Financial Secretary did speak about it, or I am not sure whether he did or he didn't, of course, is the insurance company business and the EEC directives, where I believe we are possibly in a bit of trouble technically with EEC regulations and so forth and I think, obviously, that is something that should be looked at to see whether in this particular area we can obtain some exemption for Gibraltar or whether the rules can be interpreted. I think somebody ought to be sent to France, Mr Speaker, to look at the way they do the rules because I believe they are experts.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

They just ignore them Sir.

HON P J ISOIA:

I don't want to use the words "ignore them," Mr Speaker, they seem to have a tremendous ability. I am told it is quite impossible for an EEC National to set up a business in France or to live in France, even though the EEC, the Treaty of Rome, says that you can move about freely and can take up employment freely. I am told that in Italy and France it is quite impossible for an EEC National who is not an Italian or a Frenchman, to do anything in these countries without getting licences and going through very difficult situations. I don't know whether we ought not to take a leaf out of their book as they seem to be doing it successfully. Another point that has been made to me,

Mr Speaker, and that is one I don't really quite understand and that is introducing the concept of a movable domicile for a company and on this one I am on very uncertain grounds, Mr Speaker, and that is that a company registered in Gibraltar has to have a registered office in Gibraltar and that is why its domicile is Gibraltar, allowing or making provision under our Company's legislation under which a company can, at short notice, move its domicile to another jurisdiction. Obviously, Mr Speaker, that is intended as a tax avoidance operation, not an operation to defraud creditors or anything like that, obviously there would have to be safeguards, but I am told that that is another possibility. Mr Speaker, these are a number of things that have been brought to my notice that ought to be considered. I am not suggesting that the Government should get the legislation out in 24 hours but what I am suggesting is that there are areas in which I understand progress could be made in Gibraltar and Gibraltar could really be put on the map as a finance centre. It is a whole series of measures that have to go in. I know that one has to be very careful, one has to look behind oneself and round ourselves but let us not forget one rather important thing and that is that a tax haven is in the business really, to a certain extent, of avoiding other countries taxes and enabling people to avoid taxation, also for comfortable administration and so forth, and therefore we must remember that and remembering that, we must do what has to be done in order to be able to build up the finance centre but at the same time, obviously, keeping the reputation of the place because if the reputation of a place is lost then you lose everything. I believe Liberia now is quite a problem country, people don't want anything to do with it. Strangely enough, Panama, which makes things extremely easy for everybody, still seems to be on the map, Mr Speaker, but I don't suggest we go that way. Our competitors are, I believe, Jersey, Guernsey and the Isle of Man and I think they are places of reasonably high repute and they are our competitors and we have got to try and be one up on them. I think one of the things that will produce that is increased efficiency, that is why I started off with that. I haven't had that much dealing with Jersey, Mr Speaker, but when I have dealt with Jersey, I have found them pretty quick and efficient and I think that is part of the service that we must ensure we give. Mr Speaker, having said all that, the Banking Ordinance, which is really what we are talking about and I thank you for your indulgence, we recognise that banking has to be put on a firm footing. The areas that my friend Mr Restano has mentioned, are the areas which cause us the biggest problems. I see the merit of having a Banking Supervisor and a Commissioner. We would like to know if the Commissioner of Banking is going to be a Civil Servant. You are going to have a banking supervisor appointed, presumably, outside the Civil Service, is the Commissioner also going to be recruited outside?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

If I may, Sir, on a point of clarification. The intention is that until a Banking Commissioner is appointed who could possibly be someone from outside the public service who is versed in banking, it would be the Financial and Development Secretary.

HON P J ISOLA:

I have no quarrel with that, Mr Speaker, and the Banking Supervisor as I see here is going to be the chap who really is the supervising officer, is going to be appointed, obviously somebody experienced in banking and so forth. One of the things I was told, Mr Speaker, about this particular one is that the banking supervisor should not if possible be recruited from the Bank of England. I don't know what the intentions were. The reason I was given for that is that if he is an ex-Bank of England man then a lot of people would tend to shy away from that, I don't know. I personally think that the Banking Supervisor is going to be a very key person. I think very careful thought has to go as to whom that person is going to be. He is going to have some very very extensive powers and we are worried, Mr Speaker, obviously, with the provisions of Section 51 and 52 of the Ordinance. I know one has to balance the public interest which is that we shouldn't have a bank taking deposits willy-nilly and then investing them somewhere that is unsafe on whatever, there should be somebody who can keep an eye on that. I don't think it is necessary, obviously, in the case of the big banks in Gibraltar who are established. I don't think there is any problem but any new bank I can see the problem there, Mr Speaker, but on the other hand banking secrecy is riskier except that I notice there is a fine of £5,000 and 2 years imprisonment if any information is given out and I have also noticed with some satisfaction that the Advisory Committee will not be getting the information that the Banking Supervisor gets and I think it is very important that there should be prescribed rules on that because today it is going to be three Civil Servants tomorrow it could be a member of the banking community or anything else. I think we are on a very dangerous area and I would like certainly to be absolutely clear of what is going to happen there because the powers, Mr Speaker, in Section 52 and 51 are very wide indeed. The Banking Supervisor is going to be able to go into a bank and say: "I'd like to see the account of Mr X", any document, account and other records that are in that person's name.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

If the Honourable and Learned Leader of the Opposition looks through the amendments which we have introduced, or

are introducing after consultation with the Banks, we are omitting the words "reasonably required for the purpose of the Ordinance" and substituting the words "required to do so for the purposes of prudential supervision of deposit taking business". In other words, he can only ask for information relating to the deposit taking business.

HON P J ISOLA:

Well, Mr Speaker, I am glad to hear that, we will be looking at these amendments. One thing that I am afraid we do not want, Mr Speaker, is the use of every authorised officer, I think it should be Banking Supervisor only. Mr Speaker, if we were talking of 2000 banks I can understand somebody else doing it but I think that when you are talking in Gibraltar today of 8 banks at most, I can't see that going up to 50 or 60 banks. For the time being let us just have one man who gets that information, Mr Speaker, the Banking Supervisor. I personally would ask the Government to consider seriously in the first instance to just have the Banking Supervisor who after all is not going to be that heavily engaged if this is going to be his only job, to supervise. Later on, alright, if it becomes a big thing, a lot of banks but even though there are big penalties the less people who can have this information, I would have thought, the better. We will look at the amendment to that because I am really echoing the concern shown by my Honourable Friends. The other thing that I would like to mention, Mr Speaker, is the question of the capital for full banking of a £1m. It is a small point and it isn't a small point. People from outside in this league can rustle up £1m, there is no problem. I think the big problem is finding out who is the real owner of the bank and finding out the integrity of that person and that of course, will be the responsibility of the Commissioner, the Banking Supervisor and the Advisory Committee. I don't think it is so much the money but the people that you are dealing with. This is to me the important thing. I would like, Mr Speaker, for there to be an opportunity for another local bank in Gibraltar. I can think of local interests with great integrity who are in business. If a local interest can get together, say, £1m, they should be able to start a bank. Their integrity would be well known to the Banking Supervisor and the Advisory Committee because they would be people who live in Gibraltar, who have traded here, and they wouldn't get a banking licence, obviously, unless they were very well known, I would have thought that asking those people to put down £1m possibly putting out of reach a banking licence to local interests. I would like to see the opportunity being given to local interests who want to engage in banking business to have that opportunity. I think £1m is possibly too high in that case and I was going to ask for £1m. I am sure, Mr Speaker, and I would certainly like to have assurances of that, I am sure I will

get some, but the fact that somebody can produce \$1m will not give him a banking licence, obviously. The important thing is not really producing the money, the important thing is the people who are going to run it. This is what is the big guarantee for the deposit makers. We agree with the principle of a Banking Supervisor. Unfortunately, or fortunately, I think that is essential, to supervise proper banking, but on the other hand we don't want to give him too much power, Mr Speaker, we want it to be restricted because banking secrecy is something that is valued everywhere. I don't know how the thing is done in other places, the Banking Supervisor. He won't be able to give any information, obviously, to the tax office or to the Government for the purpose of estimation or anything, it will just be for the purposes of his duties under the Ordinance, full stop. Well, Mr Speaker, those are the remarks I have to make on this.

HON CHIEF MINISTER:

Mr Speaker, I think the Honourable Leader of the Opposition was right in thanking you for your indulgence because he covered the whole field of finance centres and we were dealing with the Banking Ordinance. As he says, we are just before the recess and I think it is a good exercise to talk about these matters. In the first place, with regard to the previous Banking Bill, this was produced at the time of our present Financial Secretary's predecessor Alan Collings, who I was sorry to hear the other day hasn't been too well recently following some assignment given to him somewhere in Africa, I think he is back in the Isle of Man again. It was circulated, but, really, it hasn't gone deeply into the matter, it was a composite of a number of Ordinances of overseas territories put together in some kind of form. It looked formidable but on examination it was proved to be rather patchy and didn't have the cohesion that is required of a measure like this and in this case of course we have gone about it in a much more orderly way, we have had drafting instruction, we have had an enquiry, and then we have had people to help and so on. I am sure that the Financial Secretary will reply to most of the matters raised in general debate on the question of the Banking Ordinance itself. I want to say a few things about the other matters mentioned by the Leader of the Opposition. With regard to the last point raised by the Leader of the Opposition about \$1m. Well, if what he is thinking of is a few people here getting together and couldn't be able to get \$1m, few people getting together here to start a bank, who are not bankers, would not be able to have the knowhow, they will require people from outside, they will require partners, and they should bring money here. Banking is a very specialised discipline and it is not just the question of having the money. It doesn't mean that because you haven't got \$1m you would have a licence if you haven't got the knowhow. In fact, most of the requirements insofar as Government is concerned in respect

of the offshore banking that has come through, one of the main areas where we have looked out for is the expertise that they bring to deal with these matters, it is not a matter for amateurs. With regard to the question of the registry of companies which was the starting off point of the Leader of the Opposition's speech, perhaps he might, as I will, declare somewhat of an interest because we as practitioners are interested in the registry of companies working well but, anyhow, I entirely agree with what he says. However, I should remind Members that recently we have strengthened the staff of the Registrar of Companies by two people, one HEO, and one EO. What we have not given him yet is his computer because we have not been satisfied of the kind of hardware that is the best for what he wants but knowing the Registrar and without in any way wanting to say anything that might be a sort of criticism of the exercise of his quasi judicial functions, I think that even with ten computers he will still take time because he wants to know whether some other company in some other part of the world has got the same name. Whilst we should not go as far as has been done in England where the burden is put on anybody who takes anybody else's name as he is liable to an action for passing off, if, in fact, he is restrained by the legislation in being able to give quick answers for the proposals of names then perhaps we should look at the legislation, if it is his interpretation of the legislation then that is another matter. I entirely agree that a lot of business is lost to Gibraltar because a name cannot be got quickly. Even in urgent cases the effort is made and so on, but it doesn't work. If I came along and wanted to register a Bank and call it Rothschild, I can imagine having difficulties about it, they are reasonably big bankers, but with other personal names and so on the difficulty is terrific and we must look at that, I entirely agree that we must look at that. I think it ought to be said, too, that the emphasis on the finance centre aspect has been bigger in the last few months than it has been before, despite the fact we have been in the exempt company market, so to speak, for some time. I think two things are important in respect of this. First of all, if I may say so the vision and the enthusiasm of the Financial and Development Secretary has been partly responsible and, secondly, the fact that I think that because of what has happened to us, because of the difficulties, I think we get a better hearing in London if we are to do things in a way that we can stand up to and not fall foul of our good name, that we are getting more support from London from the Bank of England that we used to get before I think it may be one final decision taking at a high level in the Treasury of saying: "Well, what is it, if they don't go to Gibraltar they are going to go somewhere else, you are not going to lose much more revenue by allowing this facility to Gibraltar because if it is not in Gibraltar it is somewhere else". They know that a lot of people try and manage their affairs in such a way that they pay as little tax as possible and that if there is a little loophole through Gibraltar if it isn't through Gibraltar it is going

to go elsewhere. I think, perhaps, on the part 9 aspect of Ordinance which will be helpful and on which there is an element of hesitation, I believe, in England, that we might get that quick reply and deal with it. It is one matter which I think this group has been particularly strong in getting and I wish them well because I think it would be very helpful. Talking about the Banking Supervisor, it will be such a formidable person that we are afraid we might not be able to afford to pay the salary of the kind of such person we want without upsetting the apple cart on salaries. We hope we can find a person suitably fitted and within our parameters of salaries and so on that people of this calibre demand nowadays. The Financial Secretary will be dealing with the more important aspects and it is in the amendment proposed on this question of secrecy which is absolutely essential. That is the area from which the main representations have come and that is the question of absolute secrecy in order that people are not afraid of having their business disclosed and this is something for which there is provision in the amendment. I think, again, our record is good in that respect, I don't think that there has been any complaint that any of our affairs in the exempt companies has ever been divulged in any way and we have never had any complaints and that I think is to our credit that we have been in that kind of business for a long time and there hasn't been any complaint. I don't deal with this type of business very much myself but I know that people when they come here the first thing they want to know is whether what they do here is going to be known somewhere else because of our relationship with Britain. The Financial and Development Secretary having been a Treasury man well knows how to avoid the dangers of the Treasury getting hold of the information that they would dearly like to get not only here but anywhere else. This is the first measure, with regard to the question of insurance I think I ought to just mention that we are going to have a consultancy on that and we shall be coming for some funds in respect of the consultancy because it is an area where also there is considerable development particularly in captive insurance and so on and we want to make sure that we have got it right in order not to fall foul of the EEC regulations.

HON ATTORNEY GENERAL:

May I just speak briefly, Mr Speaker, on the point that was raised by the Honourable Mr Restano about the confidentiality requirements. In Clause 73, Sub-Clause 9, it is an offence to disclose the information obtained under the Ordinance. Sub-clause 10 defines definitively the circumstances in which he may disclose without being in breach of the Ordinance and Sub-Clause 10 is the place where the Honourable Member will be able to see how far one may go in making a disclosure. There is no reason why Sub-Clause 9 should not apply and it does apply to everybody, including the Commissioner, the Banking Supervisor, the Staff. Everybody is subject to that

prohibition unless they can bring themselves under Sub-Clause 10. On Sub-Clause 10, I would just like to say this, that the Bill as drafted now makes the same sort of provision as the English Act has. It authorises the disclosure of information for the purposes of prosecuting any criminal offence, and that is an extremely wide provision, and we will be moving in Committee in relation to this Bill, provisions to narrow that so that the only criminal offence which under this Ordinance an officer will be permitted to use evidence obtained under the Ordinance to prosecute will be an offence against the Ordinance itself. We think that it is not necessary and it is probably not right in principle to allow a Banking Supervisor, the authority who is set up to administer an Ordinance for the purposes of the good management of banks, to be able to use the information he thereby gains for the general advantage of the criminal law. Of course, I would like to make this point clear as well, that if there is some other provision of the law, some provision in some other law which authorises the obtaining of information for other criminal purposes, there is no reason why that other law cannot be used, but we will be limiting the scope of this Bill, so that the information obtained can only be used for prosecutions against this Bill itself. I also give notice, Mr Speaker, that I myself will be proposing some amendments which are purely of a drafting or a cosmetic nature. I think this Bill does involve an element of presentation as indeed all Bills do but this one particularly.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, Sir, I am grateful to Members on both sides of the House for what has I think been a most valuable discussion on this Bill. I would at the outset like to say that there has been delay in presentation of this Bill and really the only reason why we managed to get it to the House now is that over the past 9 months we have employed a banking advisor to assist us in the preparation of the drafting instructions and also to help the Attorney General on the technical side when it came to the actual drafting and it is for this reason that the Chief Minister has already mentioned to the House that we have also decided that for insurance in order to speed along the road we must bring in an expert advisor. Unfortunately, we have not in the Treasury here, at the moment, not so much the expertise, but the time to give to the drafting of what is essentially major financial legislation. The question of the powers granted to the Commissioner of Banking and more particularly to the Supervisor of Banking to ask for information indeed to go well beyond those powers which are in the present Ordinance but this is the way in which modern banking supervision is moving and unless we move along that road and unless we can show, internationally, that our supervision is good, Gibraltar is not going to have the reputation that we require to build it up as a banking centre. Having said that, I fully accept that we must have the controls and checks necessary so that

the Banking Supervisor can only get that information or ask for that information which he requires for the prudential supervision of banking and that doesn't mean going in and saying "I would like to have a look at Reg Wallace's account, lest Reg Wallace happens to have more than 20% of the deposits in the bank - that would be the day - but I think that what the Banking Supervisor is going to be looking at, he will be getting returns and he will be looking at where there is any undue concentration of deposit taking or of lending and saying: "Aha, you have quite a lot of money loaded in this area, or that area, can we look into this, can we talk about it?" There is ultimately, leaving aside the changes which we have drafted into the Bill after consultations with the banks, there is and we made this point in discussion with the banks this morning, one final thing which rests with the banks and that is that if any banker considers that the Banking Supervisor is asking for information which goes beyond prudential supervision of deposit taking, he can say "I am sorry, I am not going to give you that information." The Banking Supervisor then can if he so wishes, take the banker to court. But if he takes him to court, he has got to prove in court that he requires that for prudential supervision and the banker can argue that it is not required for prudential supervision. I hope that that situation will never arise and that we will get a rapport between the Banking Supervisor and the banks which means that we can get information for the Banking Supervisor and for prudential control which will not mean this head-on collision arising. I hope it won't and of course, as the Honourable Members have said, it depends on the type of person we get as Banking Supervisor. If we get a good Banking Supervisor he will know his job and he will earn the respect and confidence of the banks.

HON G T RESTANO:

If the Honourable Member will give way. Can he say how far in fact, would he be able to go in the carrying out of his duties?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

In effect, for the purposes of the Ordinance, for prudential control, he can ask for any information if he could show, and he would have to show, that it was required for the purposes of checking the prudential control of his operations by that bank, and as I say there is always the other side of the coin, where the banker can say: "I don't think you require this information," and then you get the need for a Court Order. I think that the Honourable Mr Restano had quite a good point on his suggestion on Clause 12, power to appoint other persons, should it not be with the Governor. I think that in the initial stages this doesn't arise because

as I made in a point of clarification, the intention is that the Financial and Development Secretary would be the Banking Commissioner so I think that if one had a Banking Commissioner outside the Public Service who did not automatically and ex-officio act in that post, then there is a case for actual appointment and this will be looked at by the Attorney General. The composition of the committee, initially officials for how long? Difficult to say. Obviously, for probably the first year or two of the running of the Ordinance I would say myself we would probably rely on officials but as eventually Gibraltar gets people who may retire here, or may live here and who know sufficient about banking, who are sufficiently removed from the scene to take an objective view of applications or of the work of the banks, then I think the Government would consider recommending that His Excellency the Governor appoints such persons to the Banking Advisory Committee. I think that that is a little way ahead at the moment. Quickly on the areas for improvement. Just on yachts, we have in fact now got hold of a copy of the Naples Convention, which is the one that we had not signed, and, we have got to look at it to see whether we want to be signatory to it, what we don't know is if we are a signatory to it whether our French colleagues in the EEC would think of some other reason why yachts registered in Gibraltar should be taxed. We think that it is a measure aimed at finance centres rather than at Gibraltar generally. The only reason why Jersey and Guernsey haven't fallen in the net is that they are very close to France. The only other point is the question of should only the Banking Supervisor have access to information. This is the intention at the moment. A Banking Supervisor ought to be able to look after 20 or 30 banks and we are nowhere near that at the moment, but what we do need is the power so that if he breaks his leg or is knocked down by some car in Main Street or whatever, we can appoint someone else to do his work, this is the only reason, but there is no intention whatsoever of having a horde of minor officials appointed to go round and we are making an amendment to make this quite clear. I think that the Chief Minister has made the point on the capital backing and the \$1m, and I can assure the Honourable Members opposite that anyone who comes with \$1m in his bag, even if it was in good pound sterling, doesn't necessarily get a banking licence. We go very carefully into his pedigree and I understand from some of the banks who are already here that one of the reasons which finally made them decide to come here was that they were given such a grilling by the Treasury on their pedigrees before they are allowed in that they thought it was a good place to come. I commend the Bill to the House Sir.

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 Committee Stage and Third Reading of the Bill be taken at a later stage in the meeting.

This was agreed to.

The House recessed at 5:50 pm

The House resumed at 6.20 pm

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 Gibraltar Museum and Antiquities Bill, 1982; (2) the Market Street Traders and Pedlars (Amendment) Bill 1982; (3) the Administration of Justice Bill, 1982 (4) the Banking Bill 1982; (5) the Port (Amendment) Bill, 1982; (6) the Trade Licensing (Amendment) Bill 1982; (7) the Traffic (Amendment) Bill 1982; (8) the Interpretation and General Clauses (Amendment) Bill 1982; (9) the Petroleum (Southern Rhodesia) (Repeal) Bill 1982; (10) the Supplementary Appropriation (1982/83) Bill 1982.

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

THE GIBRAITAR MUSEUM AND ANTIQUITIES BILL 1982

Clause 1

HON ATTORNEY GENERAL:

I beg to move that Clause 1 be amended by being renumbered as Sub-Clause (1) and adding the following Sub-Clause: "(2) This Ordinance shall come into operation on a date to be appointed by the Governor by notice published in the Gazette." The reason for this, Mr Chairman, if Honourable Members will look up the schedule to this Bill, is to include places which are both held for defence purposes and which are held for

MR SPEAKER:

I beg your pardon. You are now moving the amendment to Clause 1 only. Is that right?

HON ATTORNEY GENERAL:

Yes, Sir, that is right. The Schedules of ancient monuments and of protected buildings will in due course include both buildings and sites held by the Government and buildings and sites held by the Ministry of Defence, and we are in the process of settling the list of Ministry of Defence sites which would be so held. That list is not yet ready but in the meantime it is important that the present law which protects the number of such sites as ancient monuments should not lose its effect. The proposal therefore, is to allow this Bill to come into operation on a date to be appointed and in the meantime to finalise that list and to publish an Order under the provisions of the Bill completing the Schedule.

Mr Speaker put the question in the terms of the Hon the Attorney General's amendment which was resolved in the affirmative and Clause 1, as amended, was agreed to and stood part of the Bill.

Clauses 2 to 47

HON A T LODDO:

Mr Chairman, I think it is under Clause 19. This is a person who discovers any antiquity in Gibraltar. If the antiquity is portable it is to be delivered to the curator. Would a cannon be considered portable?

HON ATTORNEY GENERAL:

I think it very much depends on the person who discovers the cannon. It would depend on the circumstances, obviously. The one which sits at Fortress Headquarters, which is in any event already discovered, obviously would not be portable, some would be and some would not.

HON A T LODDO:

Mr Chairman, the reason why I asked this question is because I have noticed in a private dwelling a cannon mounted and I was wondering whether a cannon found on premises would be allowed to remain there or whether it would be considered portable and consequently would have to be handed in to the curator at the Museum.

HON ATTORNEY GENERAL:

I think, really, it would depend on the facts of each case,

some would be portable and some, obviously, wouldn't.

Clauses 2 to 47 were agreed to and stood part of the Bill.

FIRST SCHEDULE

HON ATTORNEY GENERAL:

Sir, I beg to move that on page 27 in paragraph 12, after the words "Governor's Meadow" the words "Estate to John Mackintosh Square" should be inserted. The reason for this is simply that there was an omission in the printing: Paragraph 12.

Mr Speaker put the question in the terms of the Hon the Attorney General's amendment which was resolved in the affirmative and the amendment was accordingly carried.

HON A T LODDO:

Mr Chairman; I would like, under the First Schedule, to raise again the question of Parson's Lodge.

MR SPEAKER:

We are in committee and there is no reason why you shouldn't

HON A T LODDO:

Mr Chairman, when the Bill came up for the first reading I signified our appreciation for this Bill in that I believe that the best way to protect our heritage is through legislation and we welcome the Bill but I lamented the fact that one of our ancient monuments was not a protected monument under the schedule in this Bill, namely, Parsons Lodge. I would urge the Government at the Committee Stage to include Parsons Lodge in the schedule of monuments. I hope that the Government has had time to re-think and it will give the monument the value it undoubtedly has and the protection it most undoubtedly deserves.

HON A J CANEPA:

The position with Parsons Lodge is as follows and knowing that the Honourable Member would be raising the matter I brought up the subject at the Development and Planning Commission at our last meeting. Let me say that in view of the political climate prevalent earlier in the year, namely, the strong possibility that the frontier might open, the company

interested in the development of Parsons Lodge as an Hotel was given a final extension of time in which to submit details of their final resources. This extension expired on the 30th June 1982, last week, and the option is no longer valid. The Development and Planning Commission recently reviewed the situation in the light of the change in circumstances and the consensus of opinion was that whilst it fully supported the proposals for a first class hotel in anticipation of an open frontier situation, the change in strategy warranted a re-appraisal of the situation and it is considered by the Commission unlikely that a hotel development of the magnitude envisaged will now materialise. The Commission therefore feels that rather than allow the site to fall to waste a more modest development would be desirable. This would take the form of a tourist orientated development which could retain and exploit the military and historical character of the Battery. We are therefore proposing to gauge whether there is any interest in developing the site on these lines and if successful I think that that would secure the retention of the Battery without the need to make now a premature irreversible decision by listing it in the Museum Antiquities Ordinance. What I am afraid, Mr Speaker, of doing is that if we list it in the Ordinance we are virtually tying our hands completely and virtually no development of that size would be allowed, it would be very, very difficult to get a development once it was in the schedule that the Museum Committee themselves, perhaps, might go along with it because once you declare something to be an ancient monument then you are in trouble. Our thinking is that if we invite proposals of that type of tourist orientated development, something in the nature perhaps of a military museum something in the nature of what the Honourable Mr Loddó, the Honourable Mr Scott, the Honourable Dr Valarino and I saw in Port Regent in Jersey though not so elaborate because that was a multi-million pound project and I don't think we are going to get something like that but a military museum with a small theatre where an audio-visual presentation such as we saw of the history of Gibraltar which is much richer, the military history of Gibraltar than that of Jersey, something along those lines I think would be acceptable to the Commission and to the Government, we would be utilising the site, it would improve the tourist product but we would not be tying our hands completely about the use that a developer would make of the site and of the battery though of course, as I have said, our objective would be to retain its historical character and importance. Having done that, perhaps we could then in retrospect include it in the schedule once we knew what kind of development there was. I am saying no to including it in the Schedule, we will vote against that, and if I am not leaving the door completely open at least I am leaving a window open.

HON A T LOEDO:

Mr Chairman, I am greatly heartened by what the Minister for Economic Development has said and now I see that our journey to Jersey was very fruitful in more ways than one. I am pleased to hear that the door has not been shut, it has not been opened but it has not been shut. It has been left slightly ajar which is encouraging.

HON A J HAYNES:

On No 11 of the first schedule of ancient monuments which is the caves of archaeological interest, can the Minister state whether Upper St Michael's Cave includes Lower St Michael's Cave or not and if not why not?

HON ATTORNEY GENERAL:

I am not sure whether it has been agreed for that to be considered, I will have to check, but if it is an MOD occupied cave then what would happen would be that it would fall to be considered in a list to go into an order amending the schedule once we have cleared it with MOD.

HON A J HAYNES:

As the House will remember, I have asked questions on this cave before and the vandalism to which it has been recently subjected and I would like some steps, if possible, taken to ensure that it is either included or protected.

HON ATTORNEY GENERAL:

What I can do is undertake to check and see whether it is one of the proposed ones. I have a feeling it must be because it is such a prominent site but I will check and come back.

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

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

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

THE TRADE LICENSING (AMENDMENT) BILL 1982

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

Clause 2

HON P J ISOLA:

Mr Speaker, with regard to clause 2 I was glad to hear the explanation given by the Minister for Economic Development and Trade, that one had not occurred to me. I was surprised to hear, in fact, that licences have been given in respect of premises that are obviously not trading premises and I agree entirely with him that if the main purpose of that is to stop particular premises being used for a whole series of licences, I agree entirely with what he says. Could he, however, give us an assurance that the Trade Licensing Committee will not use this licence to upset the normal course of business, genuine situations that I think do occur and have occurred in my experience of people moving out of premises and somebody else coming in.

HON A J CANEPA:

They have never done so. The position is that they asked for this amendment and the Government agreed, I agreed that I should bring such an amendment to the House. If it is not going to work properly I would feel it my duty to tell the Trade Licensing Authority; "You asked for this, you are not playing fair, the procedures that you are adopting, the decisions that you are reaching, are inconveniencing people, this is not playing the game, unless you conform to the spirit of what you yourself intended I would feel free to advise the Government that we should then bring an amendment ourselves that the Government itself should initiate the amendment." I think that one is in a strong position because one is responsible to an initiative from the Trade Licensing Authority.

HON ATTORNEY GENERAL:

Could I just add by way of explanation, Mr Chairman, on the machinery side of things. I had a look at the provisions of the Ordinance. It is possible for the Trade Licensing Authority to say: "We will grant a Trade Licence even though there is already a Trade Licence in the premises because we know that the person already there plans to move out and to safeguard both sides there is provision in the main Ordinance for the authority to be able to make the moving within a reasonable time a condition of the grant." I think, therefore, that there is no express amendment to the principal Ordinance

necessary to cover the point that was raised this morning. the machinery is there.

HON A J HAYNES:

Mr Chairman, can I have an assurance regarding the point which I raised in connection with the empowering of the Trade Licensing Authority to refuse to grant a licence of any premises if there is in existence a licence in respect of such premises in the circumstances which I enunciated i.e., where there is a business being carried on at No X Main Street, and somebody else proposes to conduct a business at the same premises using perhaps the same facilities, sharing an office, that they will not be precluded from using those premises as the premises from which they conduct their business.

HON A J CANEPA:

I cannot regulate the proceedings and the decisions of the Trade Licensing Authority in respect of all cases that may come up, I think they have to look at each case on its merits. But if this particular subsection is going to be used for a purpose which it is not intended and I have given the rationale for it, as I say, I would speak to the Chairman in that respect. I try not to get involved because the Trade Licensing Authority is a quasi judicial body and as Minister I think it would be wrong for me to get involved. But where policy is concerned in that respect I would take it upon myself to ask the Chairman of the Trade Licensing Authority that they really have to view the matters in the manner in which the Honourable Member has said. I think I could convince the Authority that that should be the case. Members of the legal profession are very closely involved, obviously, in the work of the Trade Licensing Authority and appear very often before them. I get the minutes of all meetings and thereby I keep myself informed so I would be able to monitor the situation and Honourable Members of the House who are members of the legal profession and are involved in this matter I think would have an opportunity of bringing anything to my notice which without my getting involved in the merits of any particular case might be a departure and if it were to involve the Authority using the section for the purpose which it is not meant having regard to why they ask for the amendment to be put. It is quite specific in the minutes of the meeting as to the reason why.

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

Clause 3

HON J BOSSANO:

I wish to move a number of amendments to the different components of Clause 3 which would have the effect of making the same provision in respect of printing as the present Bill does in respect of shipping agencies. I move that clause 3 be amended as follows:-

(i) in sub-clause (1) by the deletion of the fullstop and the addition of the words "and printing", after "shipping agencies"; (ii) in sub-clause (2) by the addition of the words "or printing" after the word "agent" in the final line thereof; (iii) in sub-clause (3) by the insertion of the words "or the business of printing" after the word "agent" in the fourth line thereof and (iv) in subclause (4) by the insertion of the words "or business or printing" after the word "agent" in the fourth line thereof.

Mr Speaker, obviously the purpose of the amendment is straightforward and simple, it is to provide the same protection to existing businesses in the printing industry that exists in other industries which cover practically every other area and on which we have on different occasions added. Just like we are adding the shipping agencies at this time there was the case where the transport contractors made representations and at one stage the House amended the law to include them. Before that it was the question of building contractors and electrical contractors and so on. Exactly the same argument applies to printing and with the possibility, however remote it may be, of an open frontier, the arguments for the printing industry are even more compelling than they are, I think for example, for shipping agencies or the construction industry and so on where the work involved requires a physical presence in Gibraltar. In the case of the printing industry there is no question about it that if there was no need for a trade licence in Gibraltar presumably there would be nothing to stop competition from across the frontier taking away the work from the local printing companies and I don't know what that would do as far as the press is concerned. I imagine that at least two reasonably identifiable newspapers might have no difficulty in getting printed across the border but I can well imagine that most of the others whose views tend to be generally speaking, anything but palatable to the Spanish point of view over Gibraltar, could find themselves in a situation where they would have to depend on a Spanish printer when they might be attacking a Spanish point of view. Quite apart from that, even those papers, I think, which have got their own printing resources, could find themselves in a highly difficult situation if the only printing they have was the printing they provided themselves from the fact that the same company owns the printing press and the newspaper because if the rest of the commercial printing they are doing today, went then, clearly, the entire cost of

the operation would have to be carried by the paper which is a very difficult thing. I think that it is an industry that merits in the first instance the same protection that we are giving everybody else. Secondly, it is an industry that is obvious by its very nature more vulnerable to external competition because it is easy enough to get stuff printed and bring it in. It is easier to do that, certainly than it is to build a house in Gibraltar with an external construction company and, thirdly, it is an industry which is directly linked with the existence of a free press in Gibraltar, there are half a dozen printers in Gibraltar and therefore with the limitation of a trade licence being granted automatically to those six, they would be able to defend their commercial interests in objecting to a new printing company if one appeared if they thought there was not enough business to go around but in any case with six or so, I imagine that there are about that number from the contracts that one sees being put in for government tenders and so on, with that sort of number one cannot say that one is in a monopoly situation and that one is forced to go to one single printer because one can pick and choose. Therefore, I think that it is the right opportunity that the Trade Licensing Ordinance is being amended to afford protection and I can tell the House that I have been approached myself by the different printers asking me to raise the matter in the House when an opportunity arose and I agree with their view and this is why I am bringing it up.

MR SPEAKER:

I will propose the question in the terms of the amendments moved by the Honourable Mr Bossano.

HON CHIEF MINISTER:

I want to say something that the Honourable Mover has not mentioned but which I feel ought to be mentioned and remind Members. We were also approached by the printing trade and I innocently brought in a proposed amendment of adding printing, but lo and behold, the Honourable Members in the Opposition raised almost hell about it because they thought it was an attack on the freedom of the press by controlling printing. We were doing it in the interest of the printers. We could see that there was some argument in that and we withdrew the amendment in deference to the arguments which were raised. I think the Honourable Mover will have to make a much better case to safeguard the question of printing before we can accept that because since then we have been able to look at the constitution and it could be argued that it could breach some element of the constitution which provides for this right to be maintained. The Attorney-General is not completely convinced that that will be the case but he says it is a possibility. The funny thing about this is that printing establishments are agitating for this in order to avoid competition. Yet it is within our knowledge that

tenders which the Government has accepted from local printers are executed in Tangier, so that in fact we issue tender documents and now, of course, we may have to say that the thing has got to be done here, but it is a fact that some local printers tender cheaper and send the printing to Tangier.

HON J BOSSANO:

Mr Speaker, is it not the case that without any provision in the Trade Licensing Ordinance anybody can tender?

HON CHIEF MINISTER:

And with the provision in the Trade Licensing Ordinance.

HON J BOSSANO:

No, because isn't it a condition of Government tenders that the people must have a valid licence.

HON CHIEF MINISTER:

Let us assume for one moment that the amendment has been passed, that printers require a licence and that the printing people in the industry now are automatically given a licence as we have done with Shipping firms, on application they will get it because they are here, and then they tender for a Government tender, they get it because it is cheaper and instead of printing it themselves they send it to a subsidiary or somebody in Tangier or for that matter, in an open frontier, to Spain. They are the Licencees and they have got almost a monopoly situation in that respect. That is why we want to be convinced a little more about this. We have had a problem now which we are considering but which is the question of potential, and that is the reprinting of the laws which is a very big contract and we want to give local trade an opportunity but if the local printing industry cannot take it we will certainly limit it to it being printed in the United Kingdom and it may well be that tender documents in future for printing to protect those who do all the work in Gibraltar we will have to say that the condition of the tender is that the printing has to be done in Gibraltar except for small matters or small cases and so on. There was one case in which the printing was done in England, that was raised by Mr Restano, but that was a very small item something like £300 worth of printing. We are really in a very difficult situation and in a difficult situation my advice is always to say no.

HON MAJOR R J PELIZA:

Mr Speaker, It will be recalled that it was myself who raised this matter and I think the Chief Minister has made a very good case today why the principle that was noted at the time and has been followed in this amendment should, I think, prevail. I don't think that Mr Bossano has said anything today that convinces me to the contrary. I think a distinction must be made between the ordinary trade and a trade that really affects the freedom of expression. This is, I think, the great difference and cannot be associated, the printing cannot be associated with the shipping agencies or anything like that. It is at the root of democracy, this is why I stood up and spoke. It is not a question of whether one firm can outlast another one because the other one is more powerful, it is the fact that any individual, even with a small printing machine, can go ahead and produce a paper in 24 hours. That is what is at stake. That individual hasn't got to go anywhere to ask permission for the printing of that newspaper which he may decide to produce as a leaflet, a pamphlet, tonight, if need be, because he doesn't agree with what I am saying or with what the Chief Minister is saying or with what Mr Bossano is saying. This I think, is the reason why I spoke then and I speak now. I think that if Mr Bossano gave it careful thought he might see that there is a great difference between one and the other.

HON J BOSSANO:

I cannot accept for a moment that a little individual producing a little leaflet with his own little duplicator because he doesn't agree with the Honourable Member is in the printing business. For me, clearly, when you are talking about licencing somebody to carry out the business of printing it is a business organisation where that person is doing work for somebody else and charging. There is nothing to stop anybody, because printers require a trade licence, from printing for himself whatever he wants or for getting it printed outside Gibraltar for himself, what he cannot do is go into business.

HON MAJOR R J PELIZA:

Mr Speaker, perhaps I oversimplified the argument because I didn't think that he was going to come out enlarging on that but if he wants to enlarge on that then I can as well. It is obvious that a newspaper by itself may find it extremely difficult to exist unless next to it it has got a printing business. Therefore, it isn't quite as simple as he expresses it. In other words, there might be occasions where to have a newspaper you have to have a printing business next to it and this is the reason why I would not agree with what Mr Bossano

is saying. I think he should make a distinction and in this instance I think we must give priority to freedom of expression before the business profitability and this is what it all comes down to. I don't see the situation where a Spanish newspaper or printer can come here and literally flush the market, I cannot see that situation. There would be strong objection in any case in Gibraltar itself, particularly because it is concerned with a matter that will so undermine the position of Gibraltar. I don't see that situation arise at all. As to the question of printing the easiest thing would be for any stationer in Gibraltar literally to take work, get it done outside and bring it printed here and I cannot see a way of stopping that happening unless we are going to have another law saying that printed matter cannot be allowed to come into Gibraltar without a special permit and that would almost be censorship. I don't think that that would be possible or reasonable or desirable and therefore, Mr Speaker, I oppose the amendment by the Honourable Member.

HON P J ISOLA:

Mr Speaker, we have made our views clear on this before. We were also approached by the printers and in fact one of the most vociferous of the printers on this matter and one who got most excited about it was in fact the Gibraltar Chronicle printer, I should say. I think they print "The People" with which the Honourable Member is connected. I complained, we gave them our view of the situation. We told them that for us the overriding principle was freedom of expression, that we could not put restrictions on people who might wish to produce a newspaper and in order to support financially such a newspaper would inevitably have to have a printing business because the publication of a newspaper is not profitable and that is why I mention people who have got a newspaper have to go to a printer to print it or if they want to make a success of the newspaper a printing business has to go with it. I say that, Mr Speaker, because our main objection and fundamental objection is the objection of principle of freedom of expression. But we don't accept the argument of Mr Bossano and, indeed, the argument put forward by the printers on a commercial basis because what we pointed out to them and what I would point out to the Honourable Mr Bossano, that for a new printer to establish himself in Gibraltar, he has to pay an enormous amount of money for new equipment, he has to find the premises which are just not available and then set up his printing business and we told the printers that with an open frontier situation the Spaniards would be crazy to do that. They have got their own printing business in La Linea, what they would do is advertise in Gibraltar, get your printing done in La Linea and what the printers ought to be thinking of is some way of stopping people doing their printing outside Gibraltar because that is where the competition is going to be, not in Gibraltar because anybody who sets up in Gibraltar

has to have the same system of wages, the same costing and everything else so there is no competition in Gibraltar. This is what we told them on a commercial basis, Mr Speaker this was some time ago, I think it was about a year ago, and I think the Government, quite rightly, when they introduced the amendment, when they heard the objection, they told them that unless everybody in the House agrees, they were not prepared to go along with this because there are some fundamental principles involved. But let me tell the Honourable Member another thing. The other day, when the Gibraltar Chronicle came out with its new format, which I am sure all Honourable Members will agree, is disastrous and was the most ugly thing imaginable, I rang up the editor and said: "What are you doing, why have you changed the format to your newspaper?" The answer was, money, or rather lack of it. He said: "A newspaper just doesn't make money." It is the printing that subsidises it. Perhaps, if the Chronicle were to say, for example, that is why I mentioned "The People", if they were to turn to this Member and say: "Look I am sorry, but for me to make money out of "The People", or make real money, I am going to have to charge you double what I am charging you," my Honourable Friend would be very, very upset about it. But that is the reality that a newspaper just is not business. They tell me that they can only keep it going because they have got a printing business. Let me get to the next point, Mr Speaker. As I understand the position, the Chronicle Printing Works have got probably more work that it can cope with because there is a demand for work and I think what the Honourable and Learned Chief Minister said that he has discovered that somebody advertised and tendered and then had the work done in Tangier cheaper, may be (a) because the costings are such that he couldn't take extra labour because it wasn't worth while because of the tender conditions and so forth, or (b), it may be that there just isn't the labour or specialised labour available, I don't know. What I do agree and we did say this to the printers, and I think my Honourable Friend Mr Restano said it in the House, we would like the Government and I think they do do that, when grating tenders for printing of a reasonable size that they should give preference to printers established in Gibraltar. We would go along with that absolutely, 100%, administratively. But what we cannot go along with is to protect a trade that for better or for worse is inextricably bound with the freedom of expression of people, we just can't do it, and we don't think they need it but we can't do it on principle, even if there was any need, but we don't think a need has been made out with respect to the Honourable Mr Bossano. I know that the people who publish "The People" are most vociferous on this and I am sure he must hear this every day he takes the paper to be printed. We have told them, we have explained to them and we have told them that as far as we are concerned preference must be given to the local printers in contracts from the Government. If there is going to be competition the only competition is from the private sector and the only competition

I can see in the private sector is people taking their printing elsewhere. So it is not going to help them at all to put printing under the Trade Licence Ordinance but it is going to damage a very important principle, the principle of freedom of expression. In fact, it is in the Constitution and I think the Honourable and Learned Chief Minister has got a point when he says we think it might. I think it might, if my party wants to publish a paper, let us suppose all the printers are on the Government side, they could stop us publishing it by quoting us a price that we could not meet. They could say: "I am sorry, but if you want a paper, and publishing a newspaper just isn't good business so you will have to pay £1000 for 200 copies per week," which we know we can't raise, from advertising or anything else, so we would be deprived of doing it. There are so many connotations. We have great sympathy for printers but with great respect to them bringing them under the Trade Licensing Ordinance is not going to protect their business but it is going to breach the fundamental principle of freedom of expression.

HON CHIEF MINISTER:

I also have to say that this question of freedom of expression is in the Constitution and if it comes to the crunch with the present facilities for reproducing, photocopying and so on freedom of expression can flourish anywhere. Even if it is a pamphlet it can be done privately. In the wider sense of freedom of expression, yes, in the smaller sense, no. I think if anybody wants to say anything that will not be printed by a reputable printer he can still go and have his copy typed and have it photocopied and distributed. But still the principle could be affected and we were convinced by that. We didn't really take that into account when the matter was put up but we don't think that a case has been made out.

HON J BOSSANO:

Mr Speaker, I don't accept that the argument that has been put about the freedom of expression is a valid one. Do I have the freedom of expression to choose between two television stations or two radio stations in Gibraltar? No. Does that mean that I am entitled if I think that I am not getting a sufficient opportunity on the existing one to set up my own radio station and my own television station? Because if that is what the constitution says then, perhaps, one should challenge the monopoly of radio or the monopoly of television in Gibraltar because that is very intimately linked with the freedom of expression. One talks about playing to the gallery here, well I don't think we can even play to the press anymore because whatever the concern they may have here about the freedom of expression does not seem to be shared, Mr Speaker,

I am convinced that the printers have got the same arguments that any other business has got for seeking protection and I do not think it is good enough to say to them: "It is unfortunate that you happen to be in a line of business which is connected with putting out views which people under the Constitution are entitled to put and nothing must be done to deprive them of it." The argument now is, as I said, there are six printers. I can tell the House that "The People" newspaper has had two different printers in two years of existence presumably tomorrow if the price they pay the Chronicle was considered too high they would seek a better price from one of the other competitors. Clearly, if there was limitation put on new printing business being set up, it would be limited to competition within the existing field but in that situation what the law says in respect of trade licensing is that anyone can attempt to start up a new printing business or any other business that is controlled and it is up to the people who don't want the licence to be given to object and to show why, under the terms of the Licensing Ordinance the needs of the community are adequately met. Surely, if the situation was that all the printers in Gibraltar were licensed under the Trade Licensing Ordinance and all of them were controlled by the Chief Minister, and the Leader of the Opposition wanted to start an alternative printing works in order to print his newspaper then, surely he could make the case to the Trade Licensing Committee to show that the needs of the community were not being met because his needs couldn't be met because there was a political monopoly controlling all existing printers. I don't really think that there is any genuine danger at all to freedom of expression in Gibraltar because we give the same protection that other businesses have got in Gibraltar to the business of printing and I think if we were concerned about that point then we could try to introduce safeguards in the conditions attached to the licence. I accept that the Attorney General may have some reservations about the constitutionality, I find it very difficult to believe that this is so but it would have to be tested in court and I would certainly like to see it tested in court.

HON ATTORNEY GENERAL:

I think that the point is not a clearcut point in the Constitution and as the Honourable and Learned the Chief Minister has already intimated I think it is a point which can be taken. On the question of telegraphy and wireless transmission the point I think they wished to make is that there is an express saving for the control of those activities in the clause in the Constitution which deals with freedom of expression which I must say does rather, to my mind, reinforce the view that perhaps the control of other activities might be a contravention to that clause of the Constitution but if the Honourable Member will refer to it it does expressly say that telegraphy and wireless transmissions

are taken out of the scope.

HON MAJOR PELIZA:

Just referring to the question of having a television station or a wireless station, this I think is going from the sublime to the ridiculous because we all know that first of all to start a station involves a considerable amount of money and even so it may be interfering with established wavelengths and so on and so forth which is a matter of international control and obviously that is completely out of this argument it is a red herring I think, Mr Speaker, that stinks and shows the lack of argument that the other speaker had before because on the ground on which we are arguing which is the printers' work which is in fact the basic freedom, the very basis of freedom within the printing works. The spoken word disappears one doesn't hear about it anymore but the printed word stays forever and this is the basic strength of freedom of expression in the printed word and this is what I stand here to defend. I have defended it before and I will carry on defending it for as long as I am in this House and I hope that Mr Bossano will see the great implication of this principle which I think everybody in this House should be prepared to safeguard at all times.

HON A J HAYNES:

A very short intervention, Sir. My concern is that Mr Bossano has taken the attitude that it cannot happen here and I am afraid it can happen here as it can anywhere else. Freedom of speech and other rights if you don't make provision for them can be eroded and this has been seen all over the world today. And moreover the Honourable Member if he has an interest in the printers can consider advising them to form a guild or some other such society which will protect their interests and which shall obviate the need for proposing legislation which potentially could put one of our rights at risk. Liberties which have been fought for and developed over hundreds of years are not going to be dismissed at the stroke of a pen.

HON J BOSSANO:

Mr Speaker, I am not saying that it is impossible for Gibraltar to become a dictatorship, indeed, there are people who believe it already is. What I am saying is that it is not going to become a dictatorship as a result of my amendment today in the House of Assembly. Of that I am convinced. Therefore the arguments I do not think hold water. It may be a matter of principle, it may be a matter of philosophy, I accept all those things, but I don't believe that in practical terms if we pass the amendment that I am moving, Gibraltar would suddenly find

that its basic freedoms were being eroded overnight and that the freedom of expression had disappeared, nor can I accept that if that were the case the House of Assembly was powerless to reverse the decision if it materialised and therefore I am still asking for the matter to be put to the vote although I know I am going to lose it.

Mr Speaker put the question in the terms of the Hon J Bossano's amendments and on a vote being taken the following Hon Member voted in favour:

The Hon J Bossano

The following Hon Members voted against:

The Hon A J Canepa
The Hon Major F J Dellipiani
The Hon M K Featherstone
The Hon Sir Joshua Hassan
The Hon A J Raynes
The Hon P J Isola
The Hon A T Loddio
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 was absent from the Chamber:

The Hon I Abecasis

The amendment was accordingly defeated and Clause 3 was agreed to and stood part of the Bill.

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

THE MARKETS, STREET TRADERS AND PEDLARS (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.

HON G RESTANO:

At the second reading I made two points which the Minister said he would be looking at. One was that the provisions of the Landlord and Tenant (Miscellaneous Provisions) Ordinance should apply in this Ordinance rather than the six months laid down in 5(4) and the second point was that

it might be advisable to advertise in the Gibraltar Gazette both the availability of stalls and other areas in the market place and the subsequent allocation of these. He did say that he would have a look at this during the second reading and I see that no amendment seems to have been put forward although he said that he thought that he would be giving this sympathetic consideration.

HON J B PEREZ:

The first point that I was asked to look at by the Honourable Member opposite had nothing to do as to whether the Landlord and Tenant (Miscellaneous Provisions) Ordinance applied to stalls or not. What the Honourable Member asked me to look at, because he was querying whether in fact we should only give instead of a monthly tenancy which they have had so far, the Government was now giving a six monthly tenancy and the Honourable Member opposite asked how the Government had come about deciding on six months and the explanation that I gave was two-fold. I said we were basing the six months on the six months notice to quit required under the Landlord and Tenant Ordinance, that is where we got the six months from, but the second point which remains the position now, this is why we have not increased the six months to one year as had been suggested by the Honourable Member opposite, that is what he asked me to consider, is because we feel that it could be unfair on the actual trader himself because if you have six months notice to quit it works either way. If a particular stall holder in fact finds that he wishes to close that particular stall because it is not making a profit, it is not even economical, then all he is required to give the Government is six months notice. If we make him give us a year it is a year's rent he will have to pay so the Government feels that at this moment in time we were on safer grounds, thinking in particular of the traders, to leave it for six months and see how we progress. The second point that Mr Restano raised at the Second reading was the question of advertising. The Government feels that as far as the allocation of stalls is concerned, that we should continue to do so as has been done for many years and that is on a first come, first served basis. I can assure the House that any person wishing to take a stall can write to the Department and in fact he can go to the Department and he will be shown the list with the different dates on which applications have been made. As far as that is concerned the Government feels that that procedure ought to be continued. As for advertising let me assure the Honourable Member that once a stallholder is successful in taking a stall at the market, he will then have to apply for a trade licence and therefore it would appear in the Gazette. However, the third point is that we would have no objection when a stall has been allocated to a person to make it public. That we can do and there is no need to amend the Bill in order to achieve that.

HON G RESTANO:

Where would this be made public, Mr Chairman?

HON J B PEREZ:

This would be made public in the Gazette, that can be done when the allocation is made. I can assure the Hon Member that there is no mad rush for stalls.

HON P J ISOLA:

Mr Chairman can I ask the Minister, has he considered the position now that the stalls are being let for rent as opposed to a fee or something like that, that in fact those stalls in the market are protected by the Landlord and Tenant Ordinance?

HON J B PEREZ:

I am not here to give legal advice, for that we have the Attorney General, but in my view, no, they would not come under the Landlord and Tenant Ordinance.

HON P J ISOLA:

If I remember rightly I haven't got it in front of me, the Landlord and Tenant (Miscellaneous Provisions) Ordinance applies to all tenancies and the Government is bound by it. If you describe a particular premises as a tenancy, on what grounds does the Government consider that the Landlord and Tenant partly doesn't apply and should not the tenant have the same protection in the market as other people have in other government dwellings or private accommodation?

HON CHIEF MINISTER:

The Landlord and Tenant (Miscellaneous Provisions) Ordinance does not apply to the Crown in respect of dwellings, that is quite clear.

HON P J ISOLA:

Well somebody has been arguing to the contrary, I am talking of Part 3.

HON CHIEF MINISTER:

That has been argued to the contrary with certain reservations

but I think we are going to deal with that very quickly. The view is that it does not apply to the Crown but the Crown in respect of dwellings has always followed it, without legal commitment it has followed it in terms of being a good landlord. I think it applies in respect of business premises, I think there is a difference there and that is the point that the Honourable Minister raised.

HON P J ISOLA:

Yes, that is the point I am making. Part 3 which is the one that deals with business premises applies to the Crown and I would certainly like to hear what the Honourable Attorney General has to say on this. If this is described as a tenancy in the Ordinance, on what basis does the Government say that it is not a business tenancy and therefore Part 3 does not apply?

HON J B PEREZ:

It is a tenancy in the same way as you have the Labour from Abroad (Accommodation) Ordinance in which there is a legal decision by the Supreme Court that in fact it overrides the Landlord and Tenant Ordinance and there is a Court of Appeal decision on that.

HON P J ISOLA:

Mr Speaker, that is an entirely different situation, surely if I may tell the Honourable Member and I am sure he knows, the Ordinance he has referred to does not refer to people there as being tenants. Here the Government in a Bill is calling them their tenants, paying a rent. On what basis can Government say that they are not subject to the Landlord and Tenant Ordinance? We have got an amendment saying that Part 3 should apply. We have got it there to put if necessary but I would have thought we were going to be told that it did apply.

MR SPEAKER:

With due respect, I have called clause by clause and nothing has happened. It is only when I have said The Long Title stand part of the Bill that the Hon Mr Restano got up.

HON P J ISOLA:

My Hon Friend got up because we were looking at it.

MR SPEAKER:

With due respect, the Honourable Member got up after we had done the Long Title.

HON P J ISOLA:

Mr Speaker, after clause 3 you came to The Long Title and we had misread the Bill. We were expecting Clause 4 next and that is why we stayed sitting down.

HON ATTORNEY GENERAL:

If I may comment on the matter. May I say, with respect, the way this Bill is laid out I think the clause numbering is a little confusing because Clause 3 is putting in a lot of new sections and it is not easy to pick where one is. My view on this is, in fact, that Part 3 of the Landlord and Tenant (Miscellaneous Provisions) Ordinance would apply to this type of holding subject, I think, to the particular qualifications that are in that part to a rather limited purpose. That is one of the reasons I put in sub-clause 5 of Clause 5 "notwithstanding any other provisions in any law". As I see it this is a Bill dealing with a narrower class of tenancies from the overall ambit of the Landlord and Tenant Ordinance and I take the position to be this and I hope I have achieved it. That notwithstanding anything in the wider Bill, by virtue of sub-clause (3) of Clause 5, the rentals to be paid for this type of holding will be as set out in that sub-clause being a more particular provision and certainly so far as recovery of the holdings are concerned there are specific provisions here which I think would clearly override, I think they both override, I would not want to qualify my view, but I think they both override the more general provisions of the Landlord and Tenant (Miscellaneous Provisions) Ordinance.

HON P J ISOLA:

Mr Speaker, our amendment was going to read "except as provided in paragraph 5", which gives provisions for obtaining possession. I am glad the Honourable and Learned Attorney General has said what he said and in those circumstances we do not need the tenancy but what I did say in the second reading, whether Government had given consideration as to whether it might not be necessary to exclude them specifically from Part 3 because of the nature of the Public Market. Our own feeling on this side was that people in the Public Market should have the same protection as tenants of the Government as any other Government tenants anywhere else subject to these provisions. Having heard the Honourable and Learned Attorney General, I

am happy with that particular position.

HON A T LODDO:

Mr Chairman, on clarification. I don't know if I have to declare an interest. I heard the Minister say earlier on that anybody wishing to apply would be shown the list where all the applications were kept and two minutes later he said that there was no mad rush for stalls. Is there a waiting list or isn't there a waiting list?

MR SPEAKER:

You can ask the Minister that later on if you wish to find out but not now.

THE ADMINISTRATION OF JUSTICE BILL 1982

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

Clause 3

HON ATTORNEY GENERAL:

Mr Chairman this is the first of two amendments I have which are really of a drafting nature but I think will improve the wording of the Bill. I wish to move in Clause 3, in the new Sub-Section 4, that the words "sub-section" be omitted and the word "section" substituted, that is simply a drafting error, and in the same new Sub-Section 4, to omit paragraph (b) and substitute the following paragraph: "(b) 'a fit person' includes the Director", this is a much simpler way of saying the same thing.

Mr Speaker put the question in the terms of the Hon The Attorney General's amendment which was resolved in the affirmative and Clause 3, as amended was agreed to and stood part of the Bill.

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

Clause 5

HON ATTORNEY GENERAL:

This is a consequential amendment on the substance of the Section. I move that this Clause be amended by adding the words, "and substituting the words 'or 31 days,' whichever expires the later". The reason for that is that the

substantive effect of this provision is to remove the requirements that you have to serve one year in prison before you are eligible for parole. It was never the intention and nothing in this Bill removes a requirement which listed elsewhere in the same Ordinance that you must serve at least a month imprisonment before you are eligible for parole and for completeness of reference I think it is necessary to have this cross reference to that fact otherwise it could be confusing.

Mr Speaker put the question in the terms of the Hon Attorney General's amendment which was resolved in the affirmative and clause 5, as amended, was agreed to and stood part of the Bill.

Clause 6 was agreed to and stood part of the Bill.

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

THE PORT (AMENDMENT) BILL 1982

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

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

THE TRAFFIC (AMENDMENT) BILL 1982

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

Clause 2

HON A J HAYNES:

Clause 2, Sub-paragraph 1. Specified fixed charges. Can we have any indication on those specified fixed charges?

HON H J ZAMMITT:

At the moment I think the removal fee under the old Ordinance stands at something like \$20. I think it is \$5 and \$20, there could be a fixed penalty to it but as I said under the Regulations I am afraid I have not as yet got any indication but the Attorney General may have some indication of the costs involved. I should say that there was a time in the old Ordinance where there was a \$2 penalty which would be totally unrealistic and I think it should be something of substance to make it realistic as to the actual costs involved in the craning, parking and the required police effort.

HON A J HAYNES:

Is it going to therefore just be on a costs basis or is it going to be punitive as well?

HON H J ZAMMITT:

No, I think it is going to be the cost it would take the police to carry out this function. I don't think there would be a penalty attached to that. There could well be the cost factor plus the parking ticket situation of the fixed penalty. I think that probably would happen.

HON ATTORNEY GENERAL:

I would myself treat them as separate elements. Removal costs I would advise Government should be costs as such to refute the expenses. I think the question of whether one is liable to a penalty for having contravened the parking requirement is probably a separate matter and the penal element would be covered there.

HON A J HAYNES:

But in any event the Minister anticipates the cost in excess of \$25. Can he put a ceiling figure on any?

HON H J ZAMMITT:

I do not know what the costs would be at this stage.

HON A J HAYNES:

Would the Minister wish this legislation to be enforced if, say, the costs were \$250?

HON H J ZAMMITT:

Well, if that is what it costs, yes, it will be \$250. I very much doubt it will be \$250 but if it is the cost I don't think the Government or the taxpayer should be burdened with the expense of carrying out something to the taxpayers' detriment.

HON A J HAYNES:

This brings me Mr Chairman to the point I raised in the general debate which was not answered, regarding the

comparative cost of immobilisation rather than throwing away. Will the Minister, who has now told us that he has come to this House proposing legislation the cost of which he does not know, state whether or not he made any enquiry regarding immobilisation and the comparative costs?

HON H J ZAMMITT:

Mr Speaker, I am absolutely surprised that the Honourable Member has failed to understand the reasoning for this. We do not want to immobilise vehicles that are causing obstruction. We do not want to immobilise vehicles that are there and they shouldn't be there. In fact, the whole object is to get them away from there.

HON A J HAYNES:

I am not raising the matter other than to clarify a point, Mr Speaker, insofar as it appears that the Minister has brought legislation to the House without knowing the cost of enacting the legislation and without stating whether or not he has investigated a cheaper alternative.

MR SPEAKER:

We must not go into the cost of implementation at this stage.

HON A J HAYNES:

Mr Chairman, what specified fixed charges are going to be introduced as a result of Sub-Clause (1)?

HON ATTORNEY GENERAL:

That matter is still with officials and a recommendation has to be made to the Minister.

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

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

THE INTERPRETATION AND GENERAL CLAUSES (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 PETROLEUM (SOUTHERN RHODESIA) (REPEAL) BILL 1982

Clause 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 SUPPLEMENTARY APPROPRIATION (1982/83) BILL 1982

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

SCHEDULE

Consolidated Fund Schedule of Supplementary Estimates No 1 of 1982/83

Item 1, Head 20 - Public Works Annually Recurrent was agreed to.

Item 2, Head 22 - Secretariat

HON W T SCOTT:

Mr Chairman, can we have some indication from Government as to when the final report of the Committee of Inquiry into the Electricity Undertaking will be completed?

HON CHIEF MINISTER:

The report has been completed and was delivered to Government about a fortnight ago. The Government is looking into it now.

HON W T SCOTT:

Am I to take it then, Mr Chairman, that we look forward to receiving a copy in the near future?

HON CHIEF MINISTER:

Yes, despite the fact that Members opposite didn't help in the deliberations of the report. There are two reports, there is an interim report and a full report. The matter is being looked into and I don't see any difficulty in giving copies once the Government have reached their decision.

HON P J ISOLA:

Mr Chairman, the original provision in the estimates was £15,000. The supplementary provision now is £8,000 described as a revote. Is the total cost of the Inquiry going to be £23,000 or is it going to be £8,000? What is the total cost? It is not clear I am afraid.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

The projected total cost of the inquiry is about £25,000.

HON P J ISOLA:

And why is it described as a revote?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Because it is money which was voted last year and it wasn't used.

HON P J ISOLA:

But in the estimates this year we voted £15,000.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

But there was some money last year which we had expected to pay bills, we didn't get the bills and they were paid out of this year so there was a saving on last year's vote.

HON P J ISOLA:

So the cost of the inquiry is going to be about £25,000. How does that compare with the costs of the departmental inquiry into the Public Works Department?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I haven't got the figure at hand, Mr Chairman, I will let the Honourable Member know.

HON P J ISOLA:

Because it seems to me, Mr Speaker, that this inquiry has cost rather more than the last one and I was about to make the comment that everything concerned with the Electricity

Department always seems to cost more, even inquiries.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I think the reason is Sir, that Electrical Engineers come rather expensive compared with Civil Engineers.

HON MAJOR R J PELIZA:

Mr Chairman, Civil Defence, £2,750. Could an explanation be given as to what this entails, what this expenditure is going to produce and also an indication of how far we intend to go with Civil Defence? This is a very costly matter. I know that before the last war we went very thoroughly into it, we built shelters all over the place and we had quite a good organisation but that was very costly. Can an explanation be given as to what is likely to happen and who is going to share the cost of this.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, Sir, the Government considers, following consultations with the Defence Department, that they must accept responsibility for civil defence and the first prerequisite is to have some idea of the level of civil defence protection that we require insofar as to what extent does one want protection against nuclear fall-out, chemical and biological warfare, etc. There is a whole list of questions eg., what reserves of food will be required. The proposal is to appoint a local person who is fully fitted to undertake this work for a period of about 3 months and the fee reflected here is based on a quarter of an SEO's salary.

HON MAJOR R J PELIZA:

Let me add, Sir, that I haven't asked this question because I object to civil defence in fact I believe this is something which we should look into very thoroughly. I believe that, generally, very little notice is being taken of this and perhaps the day may come when we will regret it very much. It is not that I am against it but it is just that I want to find out how far we are going and, if anything, I would encourage that we should go further. The only question is how much can we afford.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

This is just to find out how much we want and then we decide what we can afford.

Item 2. Head 22 - Secretariat was agreed to.

Item 3. Head 56 - Treasury was agreed to.

Item 4. Head 28 (n) - Contribution to Funded Services.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

This is a new Head, Mr Chairman, which covers, as I explained in my second reading speech, the contribution to funded services which were put forward by the Government in the Finance Bill would have to be voted now because they could not be voted in the original estimates.

HON P J ISOLA:

Mr Speaker, I was expecting to find in the full amount voted now in the supplementary legislation with the amount provided for in the Approved Estimates of 1982/83. We are providing for about £11,000 more than in the Estimates but I notice in the Estimates the water supply subsidy was treated as £99,000 and here we are voting £75,000 or is it for shipping somewhere else. It is, is it? So the increases in this Appropriation Bill is accounted for by the extra money for the Inquiry and the Civil Defence?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

If I may point out there are five elements basically on page 5 of the Financial Statement and the £99,000 is the potable water subsidy to hotels and shipping which is separately set out. The £96,000 is a contribution to the Potable Water Fund as such, not to hotels and shipping.

Item 4. Head 28 (N) Contribution to Funded Services was agreed to.

Schedule of Supplementary Estimates Consolidated Fund (No 1 of 1982/83) was agreed to.

Improvement and Development Fund Schedule Supplementary Estimates No 1 of 1982/83

Item 1. Head 101 - Housing

HON W T SCOTT:

Sir, I see again we have an increased element creeping in as well. When the Honourable and Learned Attorney

General announced the details of the negotiated contract with the contractors, we were led to believe that that was a fixed price contract.

HON ATTORNEY GENERAL:

With respect, Mr Chairman, this is a point which occurred to me after the last meeting when I think the Honourable Mr Bossano made some comment. I think I did say that it was subject to fluctuations for labour and materials. If the Hon Member looks at the statement I made to the House in 1980 I did say that.

Item 1. Head 101. Housing was agreed to.

Item 2. Head 104 Miscellaneous Projects

HON A T LODDO:

Mr Chairman, what were these additional works?

HON M K FEATHERSTONE:

They were very varied, Sir, they were partly the servicing of the holding area at North Front, the provision of two gates in the actual fence, a certain amount of work at the new car park at the airport, the preparation of the tennis court area at Queensway, the preparation of one car park at Grand Parade. I think those were the main ones.

HON W T SCOTT:

Mr Chairman, may I ask the Government what is the total amount of money spent to date since the signing of the Lisbon Agreement which would include the £44,000?

MR SPEAKER:

You can ask what are the £44,000 for but I think on the others you have been given information already and it has been voted for. That is information you can easily get by just looking at the Estimates.

Item 2. Head 104 Miscellaneous Projects was agreed to.

Item 3. Head 105 - General Services

HON A T LODDO:

Mr Chairman, additional works required on the car park at Queensway. I notice that from the earlier question that one of the items that have been accounted for under the £44,000 was the coach park at USOC and yet here we see car park at Queensway under a separate head with £12,500 for additional work. What were the additional works for the car park at Queensway which apparently were all but ready?

HON M K FEATHERSTONE:

I think this actually includes two sections. I think it is the actual car park at Queensway which there was extra kerbing to be done and also some work at the NAAFI site where another coach park was prepared.

HON A T LODDO:

Mr Chairman, doesn't £12,500 appear to be a bit excessive for what was done on the kerbside and the resurfacing of the small area outside NAAFI at Queensway? Doesn't it seem a bit excessive?

HON M K FEATHERSTONE:

When you consider that the area is not such a small area and it has to be asphalted I don't think that really this is excessive.

HON P J ISOLA:

How does Government estimate £5,000 for this work and then discover two months later that it needs £12,500. I thought the Public Works Department were experienced in estimating. This is incredible, Mr Speaker.

HON M K FEATHERSTONE:

I think the original hope was when the Romney Huts were taken away the surface was going to be in reasonable condition but in removing the Romney Huts quite a lot of damage to the surface was done, they had to actually dig into the foundations to take them out, there were gaping holes etc., and the whole thing had to be resurfaced properly. When the Frontier is open we hope to get the money back.

Item 3. Head 105 - General Services was agreed to.

Item 4. Head 108 - Telephone Service

HON G T RESTANO:

Sir, the £45,000 now required for replacement and purchase of coin boxes further to the £21,000 provided for in the Estimates, that is, £66,000. First of all, how many coin boxes is Government going to purchase?

HON DR R G VALARINO:

Mr Chairman, Sir, there are currently 48 applications from Government Departments and 30 from the Private Sector. It is expected that there will be additional applications and that, altogether, about 100 payphones will be required during this financial year at a cost of £66,000.

HON G RESTANO:

Forty eight from Government Departments. What sort of coinboxes are these going to be, Mr Chairman? How are they going to be distributed throughout the Government Departments?

HON DR R G VALARINO:

These will be the ordinary payphone coinboxes of the type you see in the air terminal. I am sorry I cannot give you a list of the different departments involved because I haven't got the information with me. They will be distributed throughout the different government departments especially the Hospital, the Health Centre and places where these coinboxes will be needed.

HON G RESTANO:

Mr Chairman, since the Government has taken the unfortunate decision to make people pay for local calls, how are they going to control local calls in Government Departments? Will all calls have to go through an operator, for example?

HON DR R G VALARINO:

Mr Speaker, Sir, that question which the Honourable Member has put has nothing to do with this. This is simply a coinbox in which you put a coin in, you dial the number and you get the person you want. What he is referring to, really is the system of a PEX for monitoring Government

calls.

HON G RESTANO:

Will this be done? Will there be monitoring?

MR SPEAKER:

We are not going to discuss this under this head.

HON G RESTANO:

May I ask, Mr Chairman, if within a Government department there is a coinbox in the middle of the corridor and yet everybody has a telephone in his office, what is the point of having a coinbox?

MR SPEAKER:

That is another matter.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, instructions will be given that no personal local calls can be made and also if you want to make a telephone call to the United Kingdom, or Spain or Morocco or wherever, you have got to use the telephone box. Even now, if I make a telephone call to England, the first question that I am asked is whether it is a personal or an official call.

HON G RESTANO:

I wasn't so much asking about international calls, I was talking about local ones.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Again there will be an instruction on this. At the moment you sometimes cannot get through on the telephones because they are jammed by personal calls at certain hours but the instructions will be that if you wish to make a personal telephone call you will make it from a coinbox and not from a Government telephone.

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

Item 5. Head 110 - Electricity Service was agreed to.

Schedule of supplementary Estimates Improvement and Development Fund (No 1 of 1982/83 was agreed to.

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

Clauses 2 to 4 was agreed to and stood part of the Bill.

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

MR SPEAKER:

I think this will be a good time to recess until tomorrow morning. I would remind the House that we are still in committee and we still have to do the Committee Stage of the Banking Bill. Before I recess I would like to inform the House that the Honourable Legder of the Opposition has given notice that he will raise at the adjournment the question of the independence of the Gibraltar Broadcasting Corporation and its contract with Airtime International Limited. We will now recess until tomorrow morning at 10.30 a.m.

The House recessed at 8.00 pm.

THURSDAY THE 8TH JULY 1982

The House resumed at 10.45 a.m.

MR SPEAKER:

I would remind the House that we are at Committee Stage and we will now deal with the Banking Bill, 1982.

THE BANKING BILL 1982

Clause 1

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, I beg to move on clause 1, subsection (2), to omit the words "the 1st day of October, 1982" and substitute the words "a date to be appointed by the Governor, by notice published in the Gazette." As I said in my second reading speech, Sir, it is the Government's intention that the Bill should be brought into effect on the 1st of October but we have yet to recruit a banking supervisor, it is just possible it may take us a little longer than we expect and for that reason we would like a small amount of lee-way.

Mr Speaker put the question in the terms of the Hon the Financial and Development Secretary's amendment which was resolved in the affirmative and Clause 1, as amended, was agreed to and stood part of the Bill.

Clause 2

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, Sir, I move to omit the definition "ancillary premises" and the definition of "unsecured" in this clause. When the Bill was originally drafted there were provisions in it regarding unsecured loans to staff and directors. They are now taken out of the Bill and also there was a provision relating to ancillary premises which I explained yesterday, the concept of branches has been taken out of the Bill on the licensing side so these two terms are otiose and should be removed.

Mr Speaker proposed the question in the terms of the Hon the Financial and Development Secretary's amendment.

HON P J ISOLA:

Can we have an explanation for omitting the definition of "ancillary premises" altogether.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

In the Bill when it was originally drafted there was provision that branches would be separately licensed and there would be a separate fee but an ancillary building i.e., a building where you keep your records etc, would be covered by the main licence. The concept of the Bill and the licensing now is that you licence an institution and you do not licence any of the separate branches as I mentioned yesterday, you just have the one licence for that institution and therefore the term "ancillary premises" is no longer required.

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

HON ATTORNEY GENERAL:

Mr Chairman, I have several amendments to make. Can I explain to the House that some of the amendments which are being proposed in committee are of a substantive nature and the Financial and Development Secretary will be dealing with those.

Others are of a drafting or cosmetic nature and those are the ones that I propose to take I beg to move that clause 2 be amended in the definition "chief executive", in paragraph (b), by omitting the words "in Gibraltar", and substituting the words "in or from within Gibraltar." This is a cosmetic amendment and the reason is that elsewhere in the Bill we use the phrase "in or from within Gibraltar" and I think it is prudent to have it in this place as well.

Mr Speaker put the question in the terms of the Honourable Attorney General's amendment which was resolved in the affirmative and the amendment was accordingly passed.

HON ATTORNEY GENERAL:

Mr Speaker, I beg to move that in the definition of the term "Commissioner" to insert the word "means" immediately after "Commissioner" where it first appears and to leave the word "means" in paragraphs (a) and (b). This is also purely cosmetic, it is a slight discrepancy in style with other definitions.

Mr Speaker put the question in the terms of the Honourable Attorney General's amendment which was resolved in the affirmative and the amendment was accordingly passed.

HON ATTORNEY GENERAL:

Sir, I further move, in clause 2, to omit the definition "licence" and substitute the following definitions "licence" means a licence issued under section 31(1) and where used to refer to the actual document itself, also means a copy of a licence referred to in section 31(2); "Licensee" means the person to whom a licence is issued; This is a procedural amendment. Because of the amendments already indicated by the Financial and Development Secretary to the effect that you will only have one licence for a single bank which will cover a number of premises, it comes necessary subsequently in the Bill to provide for the issue of copies of licences so that the licensee can comply with the requirement to display a copy at every office to which the public has access. This is really a drafting device so that we don't have to amend the Bill throughout. The term "licence" when used in the physical sense includes each such copy.

Mr Speaker put the question in the terms of the Honourable the Attorney General's amendment which was resolved in the affirmative and the amendment was accordingly passed.

HON ATTORNEY GENERAL:

Finally, Sir, I move in the definition of the term "representative office" to omit the words "in Gibraltar" and "outside Gibraltar". A representative office is an office which a licensee occupies but which is not used to carry on deposit taking business. In the Bill as originally drafted this concept of representative office was used in relation to overseas deposit taking businesses only but we think on reflection that we ought to have a standard concept of a representative office both for overseas licensees and for licensees established in Gibraltar. We see no reason to have a dichotomy in the Bill and so this will eliminate the difference.

Mr Speaker put the question in the terms of the Honourable Attorney General's amendment which was resolved in the affirmative and the amendment was accordingly passed.

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

Clause 3

HON ATTORNEY GENERAL:

Sir, I move in Clause 3, sub-clause (1) what may appear to be a small amendment but one I think is quite important, to enclose the expression "with or without any interests on any premium" in parenthesis. This is necessary for clarity. When I studied the Bill after publication there was the possibility of an ambiguity and this will make that clear.

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

HON A J HAYNES:

Mr Chairman, my query relates to the overall effect of the definitions and the legal terminology in section 3 and 4. Do, in effect, these sections affect the law relating to mortgages or not? Will they affect the standard mortgaging facilities available as between different companies. Will they, for instance, even reach the point where the mortgagee becomes a deposit taking company without a licence. That is the first question.

HON ATTORNEY GENERAL:

Mr Chairman, I can assure the Honourable Member, no. These

definitions which of course govern or set the whole scope of the bill, are based on the definitions in the English Banking Act and sub-clause (2), and more particularly sub-clause (2) (d), is intended to exclude loans as such from the scope of the definition.

HON A J HAYNES:

I am grateful to the Learned Attorney General. The other question, Mr Chairman, is with regard to captive insurance companies. Are they affected or caught in any way by the definition of sections 3 and 4.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

No, Sir.

Mr Speaker put the question in the terms of the Honourable Attorney General's amendment which was resolved in the affirmative and Clause 3, as amended, was agreed to and stood part of the Bill.

Clause 4

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I move to add the following sub-clause to clause 4: "(3) Without limitation of the meaning of the words "in or from within Gibraltar" in this Ordinance, but subject to sub-section (2), a person who - (a) carries on a deposit-taking business outside Gibraltar; and (b) is a body corporate incorporated or registered in Gibraltar - carries on that business from within Gibraltar, within the meaning of this Ordinance." Mr Chairman, Sir, this is an important amendment and one that we had thought we had covered in the Bill but on reflection the Attorney General advised that in fact we had not fully covered it and this arises where someone registers a business in Gibraltar as a brass plate - the R J Wallace Finance Corporation or words to that effect - leaving out the word bank, and who then goes off to a country where banking supervision is minimal and begins to take deposits in that country quoting Gibraltar as a place where he is registered. This could bring Gibraltar's reputation as a finance centre into great disrepute and we would have very little control, if any, over him unless we have this provision in the Ordinance and with this provision we could control it. This is not a situation that might arise but a situation that has in fact arisen and therefore it is important to guard against it. Mr Chairman, I move the amendment.

Mr Speaker proposed the question in the terms of the Hon Financial and Development Secretary's amendment.

HON P J ISOLA:

Mr Speaker, this is a very profound and substantial amendment to the Ordinance and unfortunately it is quite impossible to make a judgement on it at this time because one has to see the repercussions of that right through the Ordinance and in the time we have had it is quite impossible to do so. But there is one observation I want to make. I can see what is good in it in the sense that in theory the Government will be able to assure, or will they be able to assure everybody that anybody who is taking deposits in, say, Hong Kong is under the control of the Gibraltar Government? How can the Gibraltar Government assert that control? Are we getting into other people's jurisdiction and have we got a right to do this? Have we got a right to say that a Gibraltar Company that is carrying on deposit-taking in Hong Kong or Singapore is subject to the laws of Gibraltar. I just haven't had time to think about it, I think it is a very profound change in the law. I know the intention is good, the intention is to give reassurance to other people but what would other Governments say about it? What would Hong Kong say or what would Singapore say if this bank conducts its business in Hong Kong or Singapore in accordance with the laws of Hong Kong or Singapore and not in accordance with the laws of Gibraltar. Is Gibraltar then to exercise jurisdiction? I don't know, Mr Speaker, it is a very profound change in the law, it is the adoption by the Gibraltar Government of a principle that seems to give it jurisdiction extra territorially. Do we have that power I don't know. It is impossible for me to connect that with all the other clauses in the Ordinance. I agree with the idea that if somebody has a licence for banking in Gibraltar and starts playing around in Hong Kong and Shanghai or wherever, we should be able to do something about it but are we in a position to do that? Can we do that? Are we not legislating extra territorially?

HON ATTORNEY GENERAL:

Mr Chairman, I agree with the Honourable and Learned Leader of the Opposition that it is an important point and a profound point. I myself am quite happy that this is not extra territorial legislation and I would like to try and persuade the Honourable and Learned Leader of the Opposition why it is not so. This is doing nothing whatsoever to tell Hong Kong or to tell the Channel Islands or any other place beyond Gibraltar either that they must accept this Gibraltar company as a deposit-taking business or in any other way to try and tell to what extent they must regulate this company. What it is doing is saying that if somebody chooses to form a body having legal personality in Gibraltar

and thereby chooses to establish a connection with Gibraltar, then so far as we are concerned within Gibraltar that body if it is incorporated or is registered here or if it has an office here on which we can serve process, what we are saying is that so far as we are concerned within Gibraltar that must comply with this requirement. If it has operations going overseas and has its place of incorporation or place of registry here, we will be able to say this person is in breach of our law. I don't see it as being extra territorial I see it as being aimed at a body within Gibraltar by virtue of its incorporation or registration in Gibraltar and I cannot myself see that it is in any way restricting any other Government in the manner in which it may approach the question of regulating deposit-taking.

HON P J ISOLA:

I thank the Honourable Attorney General for that explanation however, my own inclination on this is to abstain. I know the idea is good but I am still a little concerned about it. I don't know whether the proper position would be in some other clause where powers of cancellation of a banking licence are there whether it might not be more appropriate to say that if any deposit taking business or body corporate in Gibraltar is found to be carrying on its business outside Gibraltar contrary to the terms of the licence that has been given in Gibraltar the licence can be cancelled. Mr Speaker I appreciate the reasons but I am a bit worried about the principles and I think we must abstain.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, on a point of clarification. We are not talking here about an institution that is licensed as a deposit-taker. We are talking about an ordinary company that registers in Gibraltar but uses or brings into the name not bank but the word finance or some other term which gives an indication that it has dealings with money and they then, not being in any way registered or licensed as a deposit-taking institute here, go outside the territory and use that name and begin to collect funds. If it were a deposit-taking institution in Gibraltar and licensed as such, we would have no problem. It is where it is not so licensed and it is merely registered under the Companies (Taxation and Concessions) Ordinance as a brass plate company, that is our fear and that is the real danger.

HON ATTORNEY GENERAL:

May I add one final point. If that situation exists it would not be a question of cancellation of the licence it would be a question of a prosecution for incorporating here and not complying with this requirement.

HON P J ISOLA:

It is rather like the trade licensing amendment yesterday. I see now there is more merit in the clause, I agree there is more merit in the clause but of course that would obviously also include anybody who is licensed by definition.

HON ATTORNEY GENERAL:

Mr Chairman, there is a clause later on which puts an obligation on the licensee, a person who has already brought himself within the umbrella of banking control to notify us what he does overseas and if he is established in Gibraltar as distinct from an outside bank he must get permission before he carries on business overseas, so there is a double control.

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

Clause 5

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, Sir, I beg to move an amendment to this clause to renumber the clause as sub-clause (1) and to add the following subsection. "(2) No person other than an institution shall in Gibraltar accept a deposit in the course of carrying on a deposit-taking business anywhere". This, again, is to ensure that no body or organisation can come into Gibraltar and without having a licence here begin to take deposits. Without this it would be possible provided they did not necessarily advertise in Gibraltar for them to collect funds and take them outside Gibraltar.

Mr Speaker put the question in the terms of the Hon Financial and Development Secretary's amendment which was resolved in the affirmative and Clause 5, as amended, was agreed to and stood part of the Bill.

Clause 6

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, Sir, I beg to move that this clause be re-numbered as subsection (1) and that after the words "to do so" in line 3, insert the words "under this Ordinance" and then add a new subsection: "No institution shall in

Gibraltar accept a deposit in the course of carrying on a deposit-taking business anywhere unless it is licensed to do so under this Ordinance and does so in accordance with the terms of the licence." This, again, as in clause 5, is to strengthen the Ordinance to ensure that no institution can come in and carry on a deposit-taking business without being licensed under the Ordinance.

Mr Speaker put the question in the terms of the Hon Financial and Development Secretary's amendment which was resolved in the affirmative and Clause 6, as amended, was agreed to and stood part of the Bill.

Clause 7

HON ATTORNEY GENERAL:

Sir, I move that this clause be amended by inserting after the words "the Governor may by order" the words "published in the Gazette." Clause 7 (2) provides for the Governor to exempt persons from the scope of the licensing requirements and this is really a procedural manner. I feel that exemptions by order would normally be published in the Gazette and we should therefore say no so that people can see what happens.

HON P J ISOLA:

I have no objection to that.

Mr Speaker put the question in the terms of the Hon Attorney General's amendment which was resolved in the affirmative and clause 7 as amended, was agreed to and stood part of the Bill.

HON P J ISOLA:

I notice the people to whom sections 5 and 6 shall not apply. I would like to know why an authorised insurer is included in that because as far as I know they don't carry on deposit-taking business, they accept premiums. If one reads this it seems they are allowed to take deposits.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, Sir, there is a deposit element in the premium and for that reason it is necessary to exclude them and that is why when the Honourable Mr Haynes enquired whether captive insurance would be covered I said no because

they are excluded under section 7 (1) (e).

HON P J ISOLA:

I am not worried about making exclusions but, surely, if they are excluded they can take deposits. What I understand the Honourable the Financial and Development Secretary to say is that part of the premium is a deposit. Well, if that is the case couldn't we just identify that and say save except for that because otherwise does it mean they can take deposits?

HON ATTORNEY GENERAL:

I can answer that, Mr Chairman. They are, of course, regulated by existing legislation and that is the reason why the exemption is absolute and I think that is a general principle. This regulates the bulk of deposit-taking businesses but if there is another Ordinance which either does or can more conveniently regulate a particular class of business then that could be relied on. In the case of insurance companies they must be authorised under the Insurance Companies Ordinance, that is the Legislative Control Ordinance.

HON P J ISOLA:

Can the Honourable the Attorney General tell us that under the Insurance Companies Ordinance an authorised insurer who has now got a licence cannot take deposits under the Ordinance?

HON ATTORNEY GENERAL:

Mr Chairman, what I am saying is that there is a need for this exemption because otherwise insurance companies may be caught by this Bill. We can give this exemption because they are, in fact, regulated under another Ordinance. By virtue of the exemption nothing in this Bill will apply to them, they will continue to be governed under their own Ordinance.

HON P J ISOLA:

But the other Ordinance doesn't stop them from taking deposits and therefore if they are excluded from Sections 5 and 6 they will be able to take deposits unless the other ordinance stops them from doing the business of banking.

HON ATTORNEY GENERAL:

Whether it does or it doesn't we see that as being a matter for control under the Assurance Companies Ordinance.

HON P J ISOLA:

Mr Speaker, I don't know whether the point is being taken. We had a situation in the Finance Bill where we got rushed through in all its stages what was a loop-hole in the Building Societies Ordinance which was cleared and now they are excluded. But, surely if an authorised insurer is not stopped from taking deposits, as soon as this Bill is passed he can start taking deposits and we will have to rush back in the middle of the summer to stop him. I want to be sure that is not the position.

HON ATTORNEY GENERAL:

The effect of clause 7 is that nothing in this Bill applies to Insurance Companies, that is the case. This is an absolute exemption from the scope of this Bill. I take the point that is being made but the point that is being made is one that needs to be examined, I think, in relation to the Assurance Companies Ordinance. An assurance company can do already anything that it is going to be able to do after this clause is law.

HON P J ISOLA:

No, Mr Speaker, at the moment an insurance company is caught by the provisions of the Banking Ordinance which is in existence. This Bill, once it is brought into law, will repeal the Banking Ordinance and then we are told here under Clauses 5 or 6 that nobody is allowed to take deposits unless it is licensed under the Ordinance. If we exclude the assurance companies completely from clauses 5 and 6 and we repeal the Banking Ordinance the insurance company can open their doors and start taking deposits tomorrow and we cannot agree to that.

HON ATTORNEY GENERAL:

I take the point fully. It is only clauses 5 and 6 from which they are exempted and later on in the Bill we have provision controlling advertising for deposits.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, the point is that unless they are excluded under

Clause 7, life insurance would be caught by the meaning of deposit taking business. In life insurance there is a deposit which is repaid at the end of the term and therefore they would be caught under the provisions of clause 4 and the way of getting out of that is to exclude them under clause 7.

HON P J ISOLA:

Yes, but shouldn't there be an additional clause saying that the taking of life premiums or whatever sort of premiums they are by an authorised insurer shall not be deemed to be the business of taking deposits under clauses 5 and 6. I know the evil that wants to be prevented but we are giving them carte blanche to take deposits and that we cannot agree with because then the whole purpose of the Bill is destroyed.

HON ATTORNEY GENERAL:

At the moment the control would be under clause 70 under which we can by regulation control advertising for deposits. Whether or not controlling advertising is a sufficient control may be a matter that needs to be looked at but at the moment there is a control.

HON P J ISOLA:

Mr Speaker, it is no use saying we can control advertising when an insurance company could write to all its clients and say: "We can take a deposit from you if you wish and we are offering you 10% or 12%. Surely, that must be stopped in this Bill. Let us not have loopholes in the Banking Ordinance.

HON ATTORNEY GENERAL:

I must say, Mr Speaker, I think the Honourable and Learned Leader of the Opposition has a point. I think the answer is to exempt to the extent that they are carrying on authorised insurance business, but no more widely. I would need a little time to consider the point.

MR SPEAKER:

I think there is no reason since we are at the committee stage why we shouldn't take a vote on this particular clause until a later stage and perhaps that will give time for reconsideration. We will leave Clause 7 without taking a vote and we will go on with the other clauses.

Clauses 8, 9 and 10 were agreed to and stood part of the Bill.

Clause 11

HON ATTORNEY GENERAL:

Sir, I move that this clause be amended by adding at the end the words "of his determination". Clause 11 (2) is a clause which enables the Commissioner to proceed on urgent or trivial matters without having to consult the Committee and what it says is that if he does so he should report back to the committee in due course. After the Bill was published somebody made the point that we should make it quite clear what was it that he had to report back so that they would know what is going on.

Mr Speaker put the question which was resolved in the affirmative and Clause 11 as amended was agreed to and stood part of the Bill.

Clause 12

HON ATTORNEY GENERAL:

Sir, I beg to move that sub-clause (1) be omitted and sub-clauses (2) and (3) be renumbered as (1) and (2) and that in sub-clause (2) as so renumbered the words "or subsection (2)" be deleted. Hon Members will remember that yesterday in the second reading a point was made from the other side of the House that it may be undesirable to give the Commissioner power to appoint any public officer to act in his place whilst he is away. I think we can simply delete sub-clause (1) because the Commissioner is a public appointment. Until such time as there is a Commissioner it will be the Financial and Development Secretary and of course if he is away there is already power in the law for an acting Financial and Development Secretary to be appointed and I go further than that and say that under the Interpretation and General Clauses Ordinance if there is a separate Commissioner and he is away, then of course there is no reason why he cannot be appointed to act in the Commissioner's place. I think really there is only a need for clause 12 to be able to cope with the committee. In the case of the committee the point which concerns the Opposition is covered because the Governor himself appoints the alternate.

Mr Speaker put the question in the terms of the Hon Attorney General's amendment which was resolved in the affirmative and Clause 12, as amended, was agreed to and stood

part of the Bill.

Clauses 13 to 18 were agreed to and stood part of the Bill.

Clause 19

HON ATTORNEY GENERAL:

Sir, I beg to move that this clause 19 (2) be amended by inserting after the words "the Governor may by Order" the words "published in the Gazette". This is the same point as I made in the amendment to clause 7. It is simply to make it clear that an order under clause 19 would be made public so that people are aware of what is happening.

Mr Speaker put the question in the terms of the Hon the Attorney General's amendment which was resolved in the affirmative and Clause 19 as amended, was agreed to and stood part of the Bill.

Clauses 20 and 21 were agreed to and stood part of the Bill.

Clause 22

HON ATTORNEY GENERAL:

Sir, I beg to move that this clause be amended by inserting immediately after the words "the Banking Supervisor shall" the words "subject to section 23,". This, Sir, together with an amendment I will shortly move to clause 23 are related. The substance of the amendment comes in clause 23 but perhaps I can conveniently explain it at this stage. Under clause 23 if the Banking Supervisor in processing a banking application decides that he is going to make an adverse report, he must notify the applicant before he goes ahead and makes his report and thereby give the applicant the opportunity to make further submissions. After the Bill was published the point was made by one of the persons who commented on it that, really, if that is the case he should not make his final determination until after he has considered the submission, which is already in the Bill, but more than that when he sends up his final determination he should include the submissions that were made by the applicant in response to his information that he was going to make an adverse report. I think this is correct, I think that the Commissioner at the end of the day should have all the documents relating to the applications including the submissions made by the applicant.

Mr Speaker put the question in the terms of the Honourable Attorney General's amendment which was resolved in the affirmative and Clause 22, as amended, was agreed to and stood part of the Bill.

Clause 23

HON ATTORNEY GENERAL:

Sir, I beg to move that this clause be amended in sub-clause 3 paragraph (b) by omitting all the words after "before determining the assessment" and substituting the words, "and," and by adding the following paragraph "(c) the Banking Supervisor shall submit copies of the submissions to the Commissioner and to the Members of the Committee, together with copies of the application and of his assessment." That is the substantive amendment which I already explained in moving the amendment to clause 22.

Mr Speaker put the question in the terms of the Hon the Attorney General's amendments which was resolved in the affirmative and Clause 23, as amended, was agreed to and stood part of the Bill.

Clauses 24 and 25 were agreed to and stood part of the Bill.

Clause 26

HON ATTORNEY GENERAL:

Sir, I move that sub-clause 1(3) of this clause be amended by inserting after the words "in the business will" the words "from the outset". In moving this I should say at once that it is not just a drafting amendment, it is rather more substantial. The intention is that the capital requirements should be met at the outset and thereafter and it is desired to move this amendment to make it clear.

Mr Speaker put the question in the terms of the Hon Attorney General's amendment which was resolved in the affirmative and Clause 26, as amended, was agreed to and stood part of the Bill.

HON P J ISOLA:

Mr Speaker, I notice no amendment has been brought with regard to the capital, the paid-up capital, which it is suggested from this side of the House, should be \$2m and not \$1m. Have the Government any thoughts of reducing that

million? One accepts the argument that was made that any local people who want to go into a bank will require expertise but one would assume that anybody who wants to go into the business of banking would procure, he has the expertise obviously any local person, and we think that the figure of £1m is too high.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, yes, the Government has considered the views put forward by the Leader of the Opposition yesterday and I would like to reiterate what the Honourable and Learned the Chief Minister said and that is that whilst local people who wish to set up a bank could buy in the management expertise, they would need, if they were starting afresh, to have a track record as a licensed deposit-taking institution for which they only require a capital of \$250,000 before they could be seriously considered for a full banking licence which would require £1m. If, on the other hand, they were coming in on a full licence and coming in with the experience and backing of an outside internationally accepted bank, then there should be no difficulty in raising funds. Capital is needed in banking as a cushion against loss because it engenders confidence as a resource free of financing costs and by that I mean that the bank would have its own funds to lend out without the costs of deposit taking and, finally a bank will require a certain amount of finance, fairly substantial amount of finance, for its own infra-structure. It is against these factors and also the erosion by inflation of amounts, as I mentioned yesterday, £125,000 in 1954 is probably just under £1m now, that the Government has set for a full banking licence a minimum capital of £1m but only \$250,000 for the deposit-taking institution.

HON P J ISOLA:

Mr Speaker, I am troubled a bit by this because we are being told that a bank with a full bank licence should have a capital of £1m, and that is the view the Government has formed, and yet when one goes later on in the Bill to the transitional provisions, one finds that those banking institutions today operating in Gibraltar, any bank, whether it is offshore or not, who does not comply or doesn't bring his capital up to £1m would still be allowed to carry on with the business of banking. I can understand the transitional period provision giving people a time, six months, twelve months, two years, to bring the capital up to £1m, but I cannot understand the thinking that allows them now to have a privileged position over local people. I think this is totally wrong and either banks with full banking licences should have a capital of £1m or it shouldn't. If they should then everybody should comply within a period of time, I am not suggesting that it should be done overnight.

Otherwise let us put it down and bring it up at a later date when everybody can comply.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, Sir, insofar as new banks that want to come in and the discussions that we have had with them, there has been no problem about finding the £1m or the \$1m for the licensed deposit-taking institution. Present banks, the Banking Commission will have discretion for a period to allow them to operate on a capital and reserve less than that which is required by the present Bill. I think that this is only fair and just, they have been here, they have stood the test of time, certainly one bank, for well over 100 years. It is very important that one should not by an Ordinance in this House put them out of business. The time which will be allowed will depend upon the views taken by the Commissioner and the Banking Supervisor and there will be a movement towards getting them up to the necessary capital structure as soon as possible and as soon as it can be done without in any way affecting their viability as banks.

HON P J ISOLA:

Mr Speaker, this goes back to what I was saying yesterday in the second reading where I said that the essence of this matter was not the money, although that is important, obviously. For anybody who wants to set up banking from outside probably, as the Financial Secretary has said, £1m is no problem, those are the ones he has been speaking to, but others might have a problem. What is important and now the Financial Secretary is himself illustrating the point, what is important is that a bank that has been established here 100 years it wouldn't matter if it had just £125,000 capital because they have carried out the test of time and this is the reason why I am suggesting a reduction in that amount so that people locally wishing to start a bank should be allowed to do so obtaining the expertise, but if the Government says they must have a million then everybody should have a million, Mr Speaker. The transitional provisions do not do what the Financial Secretary is saying it is hoped to do. The transitional provision, section 78 (3), allows the commissioner to grant a licence after a period of six months or whatever notwithstanding the requirements of sections 25 (1) (c) and 26 as to the amount of paid-up capital for a licence of that class are not complied with by the applicant. The Commissioner will come a time when he will just say: "Here is your licence. You have got a capital of £1m or you have a capital of \$300,000 there is your licence." And that bank then becomes a privileged bank in Gibraltar because that bank will be able to sell with that paid-up capital. I am not for one minute arguing, Mr Speaker, that we should make life difficult for the existing banks who have lived

and worked in Gibraltar, what I am saying is that the principle of equality should be established. Either we reduce the amount of paid-up capital, the minimal amount, to, say, £2m and then there is nothing to stop the commissioner to say to somebody who is coming out from outside: "For the sort of operation you do and for banking today we are not satisfied." I don't mind those things but I think there should be an opportunity for local interests who wish to set up banking not to be forced into the £1m. One is immediately putting a premium on existing banks with a lower licence, that must be obviously apparent to the Government. I don't object to that as long as they know what they are doing. I would say that if the Government's policy is that there should be a minimum of £1m on the argument that was put by the Financial Secretary and the Honourable and Learned the Chief Minister yesterday, if that is the view which we do not share but if that is the view then the Government must carry it through. I don't say they should say to a soliciting bank they have got to get this capital but I think in the transitional provisions there should be provision for them coming up to the required capital within a period of 2, 3 or 5 years but within a period yes, Mr Speaker, a commitment of that money to the Bank. This surely, must be a matter of principle, or reduce the capital we would go along with that because we do not think it necessary to have that. What is important in a banking licence are the people who are running it, that is the important thing.

HON MAJOR R J PELIZA:

Mr Speaker, I think the point he is making is extremely valid. This is you might say a new industry that is going to, I think, catch on in Gibraltar. No doubt, as time goes by, more and more Gibraltarians will become very interested in this business. The opportunity has not been there in the way is going to be offered now. I think it is a pity that we should lose this opportunity to enable very enterprising members of our community to try and see if they can somehow get the necessary capital to make a go of this new venture. We are introducing what I hope would be a very profitable business in Gibraltar and in a way we are discouraging the Gibraltarians to come forward to do it. We have had the experience that banks with much lesser capital than that have been successful in Gibraltar and we see no reason whatsoever why, in practice, anything should be done to try and get them to come up to that level. The only reason we are saying that they could bring it up to that level, as my Honourable Friend is suggesting here, is to show that there is no discrimination whatsoever. To put pressure on the existing banks to be able to come up to that level may in fact be detrimental to the business and might even throw them out of business not just in one or two years but may be in 10 years' time, we don't know what the progress is going to be.

MR SPEAKER:

If I may interrupt. This could be the kind of discussion and debate we should be holding when we come up to clause 78.

HON CHIEF MINISTER:

May I say something about this. The Leader of the Opposition is using one argument to help another one which is much more fundamental and that is that it is clearly fundamental constitutional practice that you do not legislate in altering things for the future prejudicing those who have been doing something legally in the past. I think this is essential in every case. Yesterday we dealt with the question of shipping agents required to have a trade licence, there were transitional provisions giving authority for those who are in the shipping business to put in their application within three months in order to do that. Whether we have £1m or £2m, is another matter but I don't think one should be linked with the other because it is obvious that we must preserve people's rights that have been acquired while it was legal otherwise you would have the situation that happened in Spain after the Franco era that it was legal to be a freemason during the republic but when they came in they made it illegal retrospectively to those who had been freemasons and sent them to jail. You cannot do that in this case and a limited period could be a strain even on £2m to some of the banks whereas if it is allowed to the discretion of the Commissioner, having regard to the development and so on, that would be the way in which they can come up to the standard. With regard to having a premium on them, first of all the banks who have got less than £1m would require the approval of the Commissioner, I should imagine, if they wanted to transfer the shares in the Company to somebody else in order that the control should be in different hands. So there is no question of their putting a premium to pass it on to somebody who is not up to the standards that are required for the future. This question of having local people, there are many people in deposit-taking business who are not bankers and that is as far as they can chew for the moment. We have thought about this, Mr Chairman, and I am afraid this is a Government decision on which we will not be able to give way.

HON P J ISOLA:

Mr Speaker, I just want to say one thing more. I agree entirely with what the Chief Minister says about retrospection, I suppose that is why there is a Bill which has just been given to us which has retrospective effect, but forget that one. I am not worried about the premium, I happened to

mention that and the Chief Minister picked up the point that I think is of least importance. The point I wish him to make is that the Government has said: "We want Gibraltar to be a reputable finance centre all over the world. We are going to have a Banking Supervisor, we are going to run our banks properly so that everybody dealing with Gibraltar will be able to say that in Gibraltar every bank has to have a minimum of £1m capital." But they won't know, unless they try and find out and start making enquiries that there are in fact some privileged banks that are operating on a full banking licence with less than £1m. Does that do Gibraltar any good? In my view it does not. I am not suggesting, Mr Speaker, that we should enact retrospective legislation, it has nothing to do with that. It is a new concept of banking brought to Gibraltar requiring new conditions for banking. This is happening every day in legislation, Mr Speaker, in every branch. Landlord and Tenant is changing constantly. People buy a house on the basis that there is no restriction on furnished flats and next day the Government passes a law restricting furnished flats. The Chief Minister says that's good, well, it may well be good, I am not saying it isn't.

MR SPEAKER:

The Chief Minister said for very good reason.

HON P J ISOLA:

For very good reason, now aren't these good reasons, Mr Speaker? We are producing a Banking Ordinance to give Gibraltar a reputation for banking all over the world with certain conditions, and we are immediately exempting a certain number of existing banks. Why? I am not suggesting Mr Speaker, that the existing banks should be harshly treated, but I don't accept the argument of the Chief Minister that because they got their licence 100 years ago, or 20 years ago, they should continue to be in that privileged position. What I am saying is this. Of course I recognise the problems about asking somebody to raise his capital from whatever it was to a million. I am not suggesting Mr Speaker, that they should be told to do it within 6 months, what I am suggesting is that within a limit of time, within the discretion of the Banking Commissioner and the Banking Supervisor who are the people who are supposed to know all about this, I am not trying to put myself in that position, I am not suggesting any period of time, but that within the discretion of the Banking Commissioner and the Banking Supervisor, under the transitional provisions they should be required to bring their paid up capital to whatever is decided on this section. That is why I keep arguing both sections because I think if this section is reduced to £500,000 that will make it much easier for the existing banks and also for any new local

people who wish to set up the business of banking, not deprive them of the opportunity to do it, but the Government says no to that. If it says no to that, what is good for the goose should be good for the gander and I think that if the Government is not prepared to reduce that sum that they should be prepared then to bring in an amendment to the existing transitional provisions requiring existing banks to bring their paid-up capital to the amount of £1m within a period of not less than a year or such later time as the Banking Commissioner or the Banking Supervisor may determine. Mr Speaker, I think this is a matter of principle because otherwise you are going to have people in the outside world who cannot possibly be expected to know every bank in Gibraltar but who will know the Banking Ordinance and will know that everybody has to have a £1m or at least £5m.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I think, Sir, I should explain that when we first began to look at this Bill and considered the position of banks who are already operating here, we did consider whether a time limit should be put on, the period in which they should meet the requirements of capital and reserve, and it was decided that to do so could put an unfair strain and a dangerous strain on the banks and affect their viability. It is the intention and we are able under the Bill, administratively, to move towards the present banks who do not meet the capital criteria, to move them towards that but it is a question of time and how quickly they can move towards it. This can be done by direction if necessary under the Ordinance and by a condition of the licence.

HON P J ISOLA:

Mr Speaker, I would like the Financial Secretary to draw my attention to the Sections because under the transitional provision Subclause 3, to me, is very clear. I don't see how after having given them a licence the Commissioner could come back and say "Now I want you to up your capital." Once he's got a licence he's got it, surely.

HON ATTORNEY GENERAL:

He can impose conditions.

HON P J ISOLA:

Yes, of course.

HON ATTORNEY GENERAL:

And he can keep that under review.

HON P J ISOLA:

Then can I have an assurance that that will be the case because that is not what is being argued on the Government side, quite to the contrary, that they should remain in a privileged position.

HON ATTORNEY GENERAL:

But there is flexibility all the same.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, Sir, there has never been any question on this side and if there has then we have unwittingly misled the Honourable and Learned Leader of the Opposition. There has never been any intention whatsoever that any bank that does not meet the capital minimum requirement should stay in that position for ever. The intention has always been that they would be moved gradually towards meeting the criteria and this can be done administratively through conditions on the licence or by direction if necessary. I can assure the House that that is the intention of the Government.

HON P J ISOLA:

Well, in that case could the Government think about this and when we come to deal with transitional provisions could we be told the sort of time factors that will be included in the licence because surely the condition in the licence will have to be: "Since you do not have the required capital, we are giving you the licence under this Clause but we give you notice that you will require to comply with the capital provision by such a date." Surely it will have to be done that way because you can't give a licence and then change it later, or can you?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I think this is a question for the Supervisor of Banking when he arrives and takes part in discussion before the issue of licences, to take a view as to after what period we would review the capital requirement for an existing bank and that would then be written into the licence that there would be a review of their capital requirements after a given period. We cannot give a specific date at the time of issuing a

licence and say that within 5 years you must do this, otherwise you will lose your licence. There has got to be a degree of flexibility.

HON P J ISOLA:

Then can the Honourable and Learned Attorney General assure the House that if a licence is given to an existing bank and does not contain the provision by what time he must bring his capital up to the capital requirements of the Ordinance can the Attorney General give us an assurance that the Banking Commissioner is legally going to be able within the provisions of this Ordinance to come a year later and say: "Look, here, old boy, now is the time to push it up."

HON ATTORNEY GENERAL:

I think myself that the reservation should be entered at the outset. I don't want to duck what I am being asked but I am slightly hesitant to give an absolute assurance on it. My own view would be that where you have a power to insist on something, you have the power to review from time to time, there is also a power to give direction. I feel myself that even if one didn't enter the caveat at the outset, it would still be possible to give directions. I think it would be prudent to say at the beginning that we are allowing them to operate at this level of capital but it is a condition about doing so that we may review this from time to time. I think that would be the way to handle it.

HON P J ISOLA:

Mr Speaker, I hope that these remarks and these assurances we have received will be remembered because I think it is a matter of fundamental principle if you are building a place up as a finance centre, not to mislead the people outside by Government action.

HON CHIEF MINISTER:

Mr Speaker, I think the Honourable Member should know that all undertakings given in the House are recorded by the Civil Service in order to see that they are honoured.

Clause 27 as amended, was agreed to and stood part of the Bill.

Clause 28 and 29 were agreed to and stood part of the Bill.

Clause 30

HON ATTORNEY GENERAL:

Sir, I move that this Clause be amended by omitting subclause 2 and therefore by also renumbering Sub-clause 3 as a sub-clause 2. This is consequential on the deletion of the requirement to separately licence different premises of the one licensee.

Mr Speaker then put the question in the terms of the Honourable Attorney General's amendment which was resolved in the affirmative and Clause 30, as amended, was agreed to and stood part of the Bill.

Clause 31

HON ATTORNEY GENERAL:

Mr Speaker, I beg to move that Clause 31 be amended by being renumbered as Sub-clause (1) and by inserting after the words "prescribed fee" the words "if any". Sir, I have split this amendment between us but with your leave I think I had better move both amendments to this clause.

MR SPEAKER:

The one of which notice was given by the Financial and Development Secretary.

HON ATTORNEY GENERAL:

If I can include that I think it will be of convenience for the House. Also by the addition of the following subclause: "(2) Where the secretary issues a licence under subsection (1); he shall also issue to the applicant sufficient copies to enable him to comply with section 36." Speaking first on the initial amendment, Sir, while it is not necessarily the intention of the Government not to charge a fee, in fact, I believe it is the contrary intention, it is not appropriate to have a mandatory fee. These will be prescribed by regulations. We don't want to appear that a fee must as a matter of law be prescribed. The point of the amendment is simply to make it clear that it is a discretion and not mandatory. Speaking to the second amendment, Sir, this again is consequential on the change in Government's position towards premises. Because all the premises will be incorporated under one licence, this is the provision that requires the signatory to issue sufficient copies of the licence to enable the licence to be displayed at his various premises.

Mr Speaker then put the question in the terms of the Honourable Attorney General's amendment which was resolved in the affirmative and Clause 31, as amended, was agreed to and stood part of the Bill.

Clause 32 was agreed to and stood part of the Bill.

Clause 33

HON ATTORNEY GENERAL:

I beg to move that in this Clause everything after the word "by" be omitted and the words "amending, adding or revoking and condition in respect of a licence" be substituted. The reason for this is that the way I drafted it the first time round is rather long winded and I think it would be better to keep it as short as possible.

Mr Speaker then put the question in the terms of the Honourable Attorney General's Amendment which was resolved in the affirmative and Clause 33 as amended, was agreed to and stood part of the Bill.

Clauses 34 and 35 were agreed to and stood part of the Bill.

HON P J ISOLA:

Could I raise a point on Clause 35?

MR SPEAKER:

Yes, of course.

HON P J ISOLA:

No licence shall be transferable. That means that one bank cannot sell its licence to another, I understand that, but if they wish to do so they would be able to transfer the shares in the Bank.

HON ATTORNEY GENERAL:

Subject to obtaining permission under Clause 48.

HON P. J ISOLA:

Under what?

HON ATTORNEY GENERAL:

Under Clause 48.

HON P J ISOLA:

Why then cannot Section 35 have also "no licence shall be transferable without the consent of the Banking Commissioner", so that somebody can transfer a licence without going through the rigmarole of a first application. In other words, if Barclays Bank wants to transfer its licence and there are restrictions on the number of banking licences from either administrative policy or legislative policy, I would have thought that an existing bank licence holder should be able to transfer his licence to somebody approved by the Commissioner.

HON ATTORNEY GENERAL:

The Honourable Financial and Development Secretary may well want to comment himself but my own reaction to that is that a banking licence as such is not quite the same kind of saleable commodity as some other licences might properly be. It seems to me that really in considering one's eligibility for a banking licence one very much has in mind the personal attributes of the particular applicant or the qualification of the particular applicant and, as I say, still leaving aside the question of shares transfers, it may therefore be more desirable to require anybody who wants a licence to make his own application and to vet the thing from the start. I appreciate of course, that technically speaking, if you can have a transfer of shares you are in effect changing the structure of the Company. I cannot help feeling that it is still better to make the application for a licence as such, something that is necessary in every case if you want a licence issued in your name. It is a feeling I have about it that, really, if you are going for a licence you should go through the whole process. There is the control if you are transferring shares that the Commissioner has but I would imagine that were the share transfer to reach the stage where it was effectively a transfer of the undertaking, he may say "no, I wish to see an application for a new licence".

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, the Attorney General has in fact spelt out the reasons which I would have myself adduced had I spoken.

Clause 36

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, I beg to move that everything after the words "the public" be omitted, and the words substituted "at all premises in which the licensee transacts with the public the business authorised by the licence." This is a consequential amendment on the dropping of the concept of branches and ancillary buildings and the requirements that a copy of the licence should be put up for public information in every business in which the licensee transacts business. That doesn't mean to say that he has to have a copy of his licence in his storeroom or what have you, it is where business with the public is transacted.

Mr Speaker then put the question in the terms of the Honourable the Financial and Development Secretary's amendment which was resolved in the affirmative and Clause 36, as amended, was agreed to and stood part of the Bill.

Clauses 37 and 38 were agreed to and stood part of the Bill.

Clause 39

HON ATTORNEY GENERAL:

Sir, I move that Clause 39 be amended, first, by renumbering the existing Clause as sub-clause (2) and by inserting before it the following new sub-clause: "(1) Where a licensee establishes a representative office in Gibraltar, it shall within one month after so establishing that office inform the Banking Supervisor in writing of the fact and of the address of the Office." The reason for this amendment is as follows. As I mentioned before, to actually carry on business from any premises within Gibraltar, to carry on banking business or deposit-taking business, you have to have approval from the Commissioner. The Commissioner would also want to know if one had any other representative office in Gibraltar. It wouldn't be necessary to get approval but it would be necessary to inform the Commissioner so he knows and that is the point of this provision. Then in sub-clause (2) to omit from the sub-clause the words "an office for the carrying on of any deposit taking business" and substitute the words "an office of any kind, either directly or through an agent". This amendment relates to activities by Gibraltar banks overseas and this is widening the requirement so that a Gibraltar bank must get permission before opening any sort of office overseas, either directly or through an agent.

Mr Speaker then put the question in the terms of the Honourable the Attorney General's amendments which was resolved in the affirmative and Clause 39, as amended, was agreed to and stood part of the Bill.

Clauses 40, 41 and 42

HON P J ISOLA:

With regard to Clause 40, presumably what is required here is that no bank shall pledge its shares as a security. Should there not be a little bit added on at the end that any such security shall be void for all purposes because presumably what this is saying is that if he pledges his shares he could lose his licence. But we want it to go a bit further, don't we? We don't want the guy who gets it as security to get his money, we want it to be void for all purposes. Is that the intention?

HON ATTORNEY GENERAL:

That is not what is intended. Let me say I am not necessarily persuaded myself at this stage that it is desirable to do that but what I was going to say was we haven't thought that far into the matter, we simply saw the control as being sufficient (a) if the licensee ran the risk of losing his licence and (b) of course he would commit a criminal offence and (c) there is a duty in this case to report any such incidents. We hadn't thought it was necessary to go further and declare void any such transactions. I know that elsewhere in the Bill there is a provision of that consequence which I have just been looking for but I am not persuaded at the moment, I would like to think about it, that they are the same kind of provisions.

Clauses 40 41 and 42 were agreed to and stood part of the Bill.

Clause 43.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, Sir, I move to renumber this Clause as sub-section (1) and to add the following sub-sections: (2) Nothing in sub-section (1) shall be construed as requiring any person to incriminate himself. (3) Where a licensee makes a report to the Banking Supervisor under sub-section (1), the Commissioner may, notwithstanding any other provision in this Ordinance but without prejudice to any of his other powers under this Ordinance, allow the licensee

such a period of time as the Commissioner shall specify to remedy the contravention. (4) Where the Commissioner allows time under sub-section (3), no person shall be liable to be convicted of an offence, by reason of there having been a contravention of any provision of any of Sections 40, 41 and 42, if the contravention is remedied within the period of time so allowed." This, Mr Chairman, gives an element of flexibility on disclosure to allow a licensee to remedy any faults within a period allowed by the Commissioner.

HON ATTORNEY GENERAL:

Under Clause 43, contravention of Clauses 40, 41 and 42 have to be reported. As it is intended to give flexibility, we will also be moving an amendment to the clause dealing with offences. Further to what the Financial and Development Secretary has said, I would just like to emphasise that the new provisions which are going in are intended to encourage banks to cooperate if they inadvertently go over a limit, to encourage them to come forward and tell the Banking Commissioner and bring the matter back under control, so we are in a sense emphasising the corrective nature of it, and playing down the criminal nature of it by restricting it only to cases of wilfulness.

Mr Speaker then put the question in the terms of the Honourable the Financial and Development Secretary's amendment which was resolved in the affirmative and Clause 43, as amended, was agreed to and stood part of the Bill.

Clause 44 stood part of the Bill.

Clause 45

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, I beg to move that the following sub-section be added to Clause 45: "(3) A person shall not be disqualified under sub-section (2) from being appointed as an auditor or from continuing to hold such an appointment by reason of the fact that he has or acquires a financial or proprietary interest in the licensee, if - (a) the Commissioner has before his appointment given him permission in writing to hold or acquire that interest; or (b) the Commissioner has before he acquires the interest given him permission in writing to acquire it; or (c) where he acquires the interest otherwise than of his own volition he informs the Commissioner in writing of the acquisition within 7 days of becoming aware of it and either - (i) the Commissioner gives him permission to continue to hold the interest; or (ii) if the Commissioner does not give him such permission he disposes of it within 14 days after being informed of the

decision of the Commissioner (or within such longer period as the Commissioner may in writing in any case allow)". This again, Mr Chairman, gives an element of flexibility to what was previously a slightly rigorous clause.

Mr Speaker then put the question in the terms of the Honourable the Financial and Development Secretary's amendment which was resolved in the affirmative and Clause 45, as amended, was agreed to and stood part of the Bill.

Clause 46

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, Sir, I beg to move under Clause 46 (1) to insert after the words "Every licensee shall keep", the words "in respect of each of its financial years". After the Bill was published, it was pointed out to us that it did not specify the requirement that the accounts would be kept for each financial year and these words have been put in to clarify the Clause.

Mr Speaker then put the question in the terms of the Honourable the Financial and Development Secretary's amendment which was resolved in the affirmative and Clause 46, as amended, was agreed to and stood part of the Bill.

Clause 47

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, Sir, I beg to move to omit everything after the words "Section 46" and to substitute the words "at all premises in which the licensee transacts with the public the business authorised by the licence." This again, Sir, is a consequential amendment to be charged in the concept of branches and ancillary buildings and in effect will require a copy of the accounts to be kept in every premises in which the licensee transacts business with the public.

Mr Speaker then put the question in the terms of the Honourable the Financial and Development Secretary's amendment which was resolved in the affirmative and Clause 47, as amended, was agreed to and stood part of the Bill.

Clause 48

HON ATTORNEY GENERAL:

I beg to move in paragraph (b) of sub-clause (2) to omit the words "carry any" and substitute the words "carry out", and in sub-clause (2) paragraph (c) to insert after the words "in agreeing to", the word "acquire". This is the Clause, Sir, which requires permission to be obtained from the Commissioner if there is a reconstruction a rearrangement or a disposal of the business of a licensee, and it is thought desirable to extend that to include the acquisition of the business or part of the business of a licensee. Sir, it would be convenient to me at this stage I think, to refer to the point made earlier by the Honourable and Learned Leader of the Opposition about transactions being null and void. In this instance there are provisions in sub-clause (3) saying that transactions which offend against the requirements of the Clause will be null and void. I think I can now reiterate what I said before that I see a need for it in this case when one is talking about major transactions. I may say I am not really persuaded that it is necessary to have it in the case of the pledge of a security for one's own security. Sir, I move accordingly.

Mr Speaker, then put the question in the terms of the Honourable the Attorney General's amendment which was resolved in the affirmative and Clause 48, as amended, was agreed to and stood part of the Bill.

Clause 49 was agreed to and stood part of the Bill

Clause 50

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, I beg to move that this Clause be amended by the insertion, in the definition "authorised officer" after the words "the Banking Supervisor or any", the word "responsible".

HON P J ISOLA:

Before a vote is taken on that could I ask, under that sub-section (a), whether with or without the amendment it says "authorised officer" means those people authorised in writing by the Commissioner to exercise the powers conferred on authorised officers by this section. What are these powers by this Section?

HON ATTORNEY GENERAL:

It should be "under this power" so may I move an amendment accordingly?

MR SPEAKER:

Yes, by all means do.

HON ATTORNEY GENERAL:

I therefore move that paragraph (a) should be amended by deleting the words "by that section" and substituting the words "under this power".

HON P J ISOLA:

The reason why I asked that, Mr Speaker, was because I just wanted to make sure that it is only this part of the Ordinance that we are talking of authorised officers. We on this side of the House at this stage, as I said in the debate, feel that the powers contained in this part of the Ordinance should only be exercised by the Commissioner or the Banking Supervisor, fullstop. This could be neatly done by merely deleting all the words after the words "Banking Supervisor" in that section. We feel, Mr Speaker, that it is important having regard to the very wide powers, even with amendment conferred under Section 52. This does not mean that in course of time, when there are many more banks, we would not agree to an amendment to include this but I think at this point of time we feel strongly, until we have seen the Ordinance working, that should be the position. If the Banking Supervisor is on holiday or on leave then we would respectfully suggest that if it is urgent perhaps the Commissioner could do the inspection. We would like to suggest that the Government would agree to an amendment under which "authorised officer" means the Commissioner or the Banking Supervisor and all the other words are deleted.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, Sir, I would very much like to meet the Honourable and Learned Leader of the Opposition on his suggested amendment. My only concern is that the Commissioner would not be a suitable person, he is not a banking man or is unlikely to be, to do this work, and as I said yesterday in the second reading debate if the Supervisor fell under a bus, was in hospital or for any reason is sick or away, one would need someone to be acting as Banking Supervisor and it

is a provision to appoint a person to act as Banking Supervisor that one would be looking for. If we take out all the words after "Banking Supervisor" we would have a problem in that respect.

HON P J ISOLA:

Mr Speaker, if that is the problem then I would crave your indulgence to put in an amendment the effect of which would be, "authorised officer" means the Commissioner, or the Banking Supervisor, or any person appointed to act as Banking Supervisor during the absence on leave, sickness or anything else. We don't want anybody else, Mr Speaker, we will have to make amendments to 51 and 52. Although we know it is necessary, we appreciate it is necessary, we are not going to vote for a section that gives an authorised officer whom we don't know who it could be these very wide powers. to inquire into the affairs of private institutions.

HON ATTORNEY GENERAL:

Can I say what I think on this matter. Dealing first with the question of acting appointment of a banking Supervisor I think to put something in here as wide as that simply to meet this point, with respect, would not be appropriate. The Banking Supervisor is appointed under the administrative provisions earlier on in the Bill and the general law being what it is, if he is sick one can appoint an acting Banking Supervisor anyway.

HON P J ISOLA:

You can?

HON ATTORNEY GENERAL:

Yes. He is a public officer and one can appoint another one. I don't think it is necessary or desirable to put anything to that effect in here. Having said that, it seems to me, if I can reiterate what the Honourable Financial and Development Secretary said, that the Commissioner since he is at the top of the process, as it were, it is best that he doesn't get involved in going out and making inspections and seeking information, that he should use the Banking Supervisor to do this rather than he doing it himself which then means that one is left with only one person who is either the Banking Supervisor or if he is sick there is still only one person it would be the acting Banking Supervisor, and from a practical point of view while the Honourable the Financial and Development Secretary has already indicated that in spirit the point that is being made is taken, I think one really has to have some power to have the scope to at least

appoint another person to go out and do this work if it became urgently necessary and I do suggest that if we say "responsible authorised person" that does limit. I appreciate there is a conflict but I think if you limit it to only one person holding the fort it could be rather dangerous.

HON P J ISOLA:

Mr Speaker, having heard the explanation of the Honourable and Learned Attorney General then the point or the fears expressed by the Financial and Development Secretary are in fact met because if the Banking Supervisor is a public officer and during his absence, either sick or on leave, somebody else can be appointed, this is fine, we don't mind it in those circumstances. I only suggested the Commissioner because the law itself is suggesting him as an authorised officer. What I was suggesting is that the Commissioner might like to do it but I appreciate the reasons for him not doing it. What we are saying is that with 10, 15 or 20 banks, we have not got that, we have only got about 8 in Gibraltar, we see no reason why this most serious of all responsibilities should not be carried out personally by the Banking Supervisor and if, in fact, somebody can act during his absence then I am going to move that all the words after the words "Banking Supervisor" should be deleted because then I think the thing is met.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

We are prepared to go along with that. With the leave of the House may I withdraw my amendment so that the Honourable and Learned the Leader of the Opposition can make his.

HON P J ISOLA:

Mr Speaker, I move that Clause 50 (a) of the Bill be amended by the deletion of all the words after the words "Banking Supervisor" in the second line thereof up to and including the word "section".

Mr Speaker then put the question in the terms of the Honourable P J Isola's amendment which was resolved in the affirmative and Clause 50, as amended, was agreed to and stood part of the Bill.

Clause 51

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, Sir, I beg to move an amendment to Clause 51

(1) (b) to omit the words "reasonably required him to do so for the purposes of this Ordinance", and substitute the words "requiring him to do so for the purposes of the prudential supervision of deposit-taking businesses". Sir, this amendment I did mention yesterday in that the Banking Supervisor will only be able to seek the information or ask for information for the purpose of prudential supervision. He cannot seek information for idle or mischievous curiosity.

HON P J ISOLA:

Mr Speaker, we welcome this amendment. I think it does improve the position quite considerably as, indeed, the proposed amendment to the next clause.

Mr Speaker then put the question in the terms of the Honourable the Financial and Development Secretary's amendment which was resolved in the affirmative and Clause 51, as amended, was agreed to and stood part of the Bill.

Clause 52

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, Sir, I beg to move that the words "Any authorised officer may at any time" be deleted and the words substituted therefor as follows: "An authorised officer may for the purposes of the prudential supervision of deposit-taking businesses". This again links with the previous amendment which has been passed by the House.

Mr Speaker then put the question in the terms of the Honourable the Financial and Development Secretary's amendment which was resolved in the affirmative and Clause 52, as amended, was agreed to and stood part of the Bill.

Clause 53

HON ATTORNEY GENERAL:

Sir, I move that this Clause be amended by inserting after sub-clause (2) the following new sub-clause and to consequentially renumber the subsequent sub-clauses accordingly: "(3) The Commissioner may from time to time revoke or vary a decision given under this section, in the same manner as it was given". Sir, there are two Clauses in the Bill dealing with directions. This Clause deals with directions during the currency of the operations of a deposit-taking business a subsequent clause deals with

directions on a winding-up or on a cancellation. In the subsequent section there is this expressed power to revoke or vary directions. I think it is as well that we should repeat it here to avoid any possible conflict of interpretation.

Mr Speaker then put the question in the terms of the Honourable Attorney General's amendment which was resolved in the affirmative, and clause 53, as amended, was agreed to and stood part of the Bill.

Clauses 54 to 58 were agreed to and stood part of the Bill.

Clause 59

HON ATTORNEY GENERAL:

Sir, I move that sub-clause (2) be deleted. Sir, this clause deals with determination of applications for cancellation of a licence and in that Clause as it appears in the Bill at present, one of the options that we provided for the Commissioner if he decided to cancel a licence was to decide to suspend the cancellation and, simply put, we think that is an over refinement, he either cancels or he doesn't cancel. He already has powers to take lesser steps before he gets to that point but once he is at the stage of cancellation we think it is an over refinement to actually suspend cancellation and could in fact lead to a situation that it wasn't entirely satisfactory and so we are proposing to omit this weapon in the armoury of the Commissioner.

Mr Speaker then put the question in the terms of the Honourable Attorney General's amendment which was resolved in the affirmative and Clause 59, as amended, was agreed to and stood part of the Bill.

Clause 60

HON ATTORNEY GENERAL:

Sir, I move that this Clause be amended by omitting sub-clauses (3), (4) and (5) and substituting the following sub-clauses: "(3) The Commissioner may from time to time revoke or vary a direction given under this section, in the same manner as it was given. (4) unless it is sooner revoked, a direction given under this section shall cease to have effect when the institution to which it relates ceases to have any liability to its depositors and creditors, collectively and severally." Sir, this clause at present says that a direction on a cancellation will

only endure for a specified period of time unless it is renewed and we think in much the same way as we think that a suspension of a cancellation is an over refinement, we see on reflection this as being unduly limiting. There is no reason of course why the Commissioner cannot cancel a direction whenever he likes but we think it could be too restrictive to have a set time limit on them bearing in mind that we are now talking about the situation where the bank is, if you like, in liquidation and being wound up and therefore we are proposing to eliminate that restriction on directions.

Mr Speaker then put the question in the terms of the Honourable the Attorney General's amendment which was resolved in the affirmative and Clause 60, as amended, was agreed to and stood part of the Bill.

Clause 61 was agreed to and stood part of the Bill.

Clause 62

HON ATTORNEY GENERAL:

Sir, I move that Clause 62 (1) (b) be amended by inserting after the word "direction" the words "or variation of a direction" and that Clause 62 (1) (d) be amended by inserting after the word "direction", the words "or variation of a direction". Sir, the point of each amendment is the same. This Clause deals with rights of appeal and we simply want to make it quite clear that if a direction is varied then there is a right of appeal.

Mr Speaker then put the question in the terms of the Honourable the Attorney General's amendment which was resolved in the affirmative and Clause 62, as amended, was agreed to and stood part of the Bill.

Clauses 63 and 64 were agreed to and stood part of the Bill.

HON P J ISOLA:

Sir, the appeal to the Governor, I presume that would be the Governor-in-Council?

ATTORNEY GENERAL:

Yes it does, it means the Governor in Gibraltar Council. Whereas earlier legislation does use the term Governor-in-Council and Governor, I think constitutionally there is no need to add those words, the word Governor constitutionally

means the Governor acting on advice or acting otherwise but in this case that is what it means, yes.

Clause 65

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, Sir, I am afraid I have a number of amendments to this Clause. I don't know whether you would like me to take them seriatim or together.

MR SPEAKER:

I think we should give the Opposition the right to vote separately.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Very good. The first then is to Clause 65 (1) to omit paragraph (c) and substitute the following "(c) any word or words resembling the word "bank" in such a manner as to indicate or to be likely to cause any other person to believe that the first person is a bank or is carrying on the business of a bank."

HON P J ISOLA:

Do you mean that such a word as "finance" would be regarded as resembling a bank, because there are a lot of companies forming with these sort of words. They will be coming very closely resembling banks would it, so that would be the idea?

HON ATTORNEY GENERAL:

Sir, there would be a word or a form of words which would leave the ordinary man in the street to suppose that what was going on was banking.

Mr Speaker then put the question in the terms of the Honourable the Financial and Development Secretary's amendment which was resolved in the affirmative, and the amendment was accordingly passed.

HON ATTORNEY GENERAL:

Sir, I beg to move in Clause 65 (2) (e) that the words "to whom sub-section (1) does not apply", be omitted and be

substituted by the words "to whom either of paragraphs (c) and (d) refers."

Mr Speaker then put the question in the terms of the Honourable the Attorney General's amendment which was resolved in the affirmative and the amendment was accordingly passed.

Mr Speaker:

There is a further amendment, I believe.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, Sir, I beg to move that the following sub-clauses be added to Clause 65; "(3) Nothing in sub-section (1) shall prohibit a licensee holding a limited licence from using the expression "bank" or a cognate or similar expression with reference to himself in any case where - (a) he wishes to comply with or take advantage of any relevant provision of law or custom; and (b) it is necessary for him to use that expression in order to be able to assert that he is complying with or entitled to take advantage of that provision". "(4) In sub-section (3), relevant provision of law or custom" means any enactment, any instrument made under an enactment, any international agreement, any rule of law or any commercial usage or practice which confers any benefit on or otherwise has effect only, in relation to a person by virtue of his being a bank or banker. "(5) Nothing in sub-section (1) shall prohibit a licensee holding a limited licence from using the expression "banking services" in relation to any of the services provided by it if - (a) the use of the expression is not in such immediate conjunction with the name of the institution that the expression might reasonably be thought to form part of its name; and (b) the expression does not appear on any notice or sign or in any other writing that is for the time being so displayed as to be visible to persons frequenting any place or building to which the public has access and (c) the expression is not used in any advertisement for or in connection with the soliciting of deposits from the public." I beg to move.

Mr Speaker then put the question in the terms of the Honourable the Financial and Development Secretary's amendment which was resolved in the affirmative, the amendment was accordingly passed.

Clause 65 as amended, was agreed to and stood part of the Bill.

Clauses 66 to 72 were agreed to and stood part of the Bill.

Clause 73

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, Sir, both the Attorney General and myself have a number of amendments to this Clause, If you and the House so agree you may prefer to vote on each amendment separately.

MR SPEAKER:

Most certainly. Does one amendment affect the others or shall we take them in the right sequence.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I think if they went in sequence, Sir, it would be best.

HON ATTORNEY GENERAL:

Sir, by your leave since they relate to a criminal section it might be easier if one of us takes them.

MR SPEAKER:

I am not concerned as to who proposes the amendments, I am concerned that they should be taken in the right sequence.

HON ATTORNEY GENERAL:

In that case I will take them. Sir, the first amendment is in clause 73 (1) to insert after the words "who contravenes" the words "any provision of" and to omit the words "for a term of" and substitute the words "for a term not exceeding". These are amendments simply to achieve consistency of style in the expression of a criminal offence.

Mr Speaker then put the question in the terms of the Honourable the Attorney General's amendments which was resolved in the affirmative and the amendment were accordingly passed.

HON ATTORNEY GENERAL:

Sir, I now move that sub-clause (2) be omitted and that the following sub-clause be substituted. "(2) any licensee who - (a) contravenes any provision of any of Sections 38, 39, 43, 44, 45, 46, 49 and 61; or (b) wilfully contravenes any provision of any sections 40, 41 and 42 - commits an offence which shall be liable on conviction on

inducement to a fine not exceeding \$5,000". Sir, this amendment has two purposes. The first relates to Sections 40, 41 and 42 and as Honourable Members may recall, these are Sections in respect of which if there is a contravention the licensee concerned must report that contravention to the Commissioner and we feel because he has got that duty to report and cooperate and because of what I was saying before about the main thrust of the section being to be preventive rather than impose a criminal sanction we think that they should only be criminally liable if they wilfully contravene the provisions. This is the first amendment, Sir. Two other small points of the amendment in relation to "Clause 45 it is necessary to be more specific in 41 (1), and I have also taken the liberty of including Clause 43 because I think it would be an offence not to comply with Clause 43 which is the Clause under which you report contraventions. I move accordingly Sir.

HON P J ISOLA:

I notice 48 has been omitted. Is that deliberate?

HON ATTORNEY GENERAL:

Clause 48 has been omitted because it is covered further down. It is covered in sub-clause 5 (a).

Mr Speaker then put the question in the terms of the Honourable the Attorney General's amendments which was resolved in the affirmative, and the amendments were accordingly passed.

HON ATTORNEY GENERAL:

I now move, Sir, that the Clause be amended by inserting in sub-clause (4) after the word "direction" the words "or variation of a direction". The reason for that, Sir, is consequential from the point I was making before. In the same way as we wanted to make it clear that there was a right of appeal against the variation of the direction we would also like to convey it the other way and make it clear that there is criminal liability for a contravention of a variation.

Mr Speaker then put the question in the terms of the Honourable the Attorney General's amendment which was resolved in the affirmative and the amendment was accordingly passed.

HON ATTORNEY GENERAL:

I also move that in sub-clause (5) the expression "48, 49" be omitted and that there be substituted the expression "48 (2)".

The reason for this is that it is more necessary to be more specific about Clause 48. Secondly, that in the same way as Clause 48 was repeated so was Clause 49 and that is already covered in sub-clause (2) so it is not necessary to refer to it twice. I move accordingly, Sir.

Mr Speaker then put the question in the terms of the Honourable the Attorney General's amendment which was resolved in the affirmative and the amendment was accordingly passed.

HON ATTORNEY GENERAL:

In sub-clause (10), Sir, I move that paragraph (f) be omitted and that the following paragraph be substituted. "(f) to the disclosure of any information that is required to be disclosed pursuant to any other enactment; or". Sir, the reason for this is, as I mentioned in the second reading debate on this Bill, at the most in the same way as the English Act so provides, there is a requirement in Clause 73, or I should say permission is given in Clause 73 (10) to disclose any information that is required in the course of administering the Ordinance for the purposes of any criminal inquiry whatsoever, and we think and we accept that this is really too wide and is probably not sound in principle and that therefore information obtained under this Bill should not be able to be disclosed pursuant to the authority of this Bill for any purpose other than an offence under this Bill. I think not only is it a question of being unduly hard on people I think it is also a question of efficacy. If there are these restrictions then I think people will have more confidence in disclosing information to the Banking Commissioner for banking purposes, the same philosophy as in the case of Income Tax. At the same time, of course, if some other statute expressly says that a police officer or somebody may obtain a warrant, may go into a bank and obtain information, if some other statute itself said that this Bill is not interfering with that and therefore sub-clause (f), as amended is merely declaratory of what the position would be under that other statute. I am bound to say that if anybody takes exception the position would still be the same even if there wasn't the Clause, there but I would see no real reason even to dropping it. I would just like to stress that it is not the point of the disclosure provisions in this Bill to use the scheme set up by this Bill as a device for feeding information to other law enforcement agencies..

HON P J ISOLA:

The only thing is that this Clause says in sub-section (9) which is the secrecy provision, that you cannot disclose any information otherwise you are fined or sent to prison and then it says sub-section (9) shall not apply and then it says, this

particular clause to the disclosure of any information pursuant to any other enactment. I can understand if you get a warrant and some Ordinance allows information to be obtained, but to the disclosure by whom, by the Banking Supervisor or to the Banking Supervisor? In other words the Income Tax Ordinance has provisions for disclosure but does it mean that the Banking Supervisor would be able to disclose to the Commissioner of Income Tax any information that a particular bank or somebody should have disclosed pursuant to the Income Tax Ordinance? I am just giving an example. I understand what the Honourable and Learned Attorney General had to say but I am just wondering whether that section now as drafted is not wide enough to allow the Banking Supervisor to pass on information which should have been passed on by somebody pursuant to a particular Ordinance.

HON ATTORNEY GENERAL:

The principle which I am trying to achieve in the proposed amendment is this, that if after due consideration the legislature has in another Ordinance given power to some authority to obtain information whether it be by a warrant obtained by a police officer on going to Court or by anyone else, nothing in this Bill is restricting that power. I did say a few minutes ago that I would have no objection to seeing my proposed new (f) come out but on reflection I think it is necessary because if it comes out we then set up a position of conflict between sub-clause (9) which is on its face absolute in the latest legislative enactment and provisions of which we don't intend to alter such as the provisions whereby someone can go to a court and get a search warrant for criminal purposes. There is nothing in the amendment which is encouraging the Banking Commissioner to disclose information. He will only be able to do so as the legislature has already said in this context.

HON G T RESTANO:

Would the Honourable and Learned Attorney General agree to to interposing of the word "obtained", i.e., to the disclosure of any information obtained pursuant to any other enactment.

HON ATTORNEY GENERAL:

I think, Sir, that would mean something slightly different. That would mean that the person making the disclosure had obtained the information. The situation we are trying to cover, the only real example I can think of is rather a startling example, but where a police officer has to come to a bank manager or possibly to the Banking Commissioner and say "We need to know about this matter, and I think that if

the word "obtained" went in that would change the meaning. If it were to read "to the disclosure pursuant to any other enactment of any information obtained under this enactment" that would be different.

HON G T RESTANO:

It is just, Mr Speaker, that I feel that the way it is drafted would allow the Banking Supervisor to make disclosures of information that ought to have been disclosed in another enactment.

HON ATTORNEY GENERAL:

Would it help if we were to narrow it so that it is not merely disclosure pursuant to the authority the permissive authority of another enactment, but disclosure that is mandatorily required under another enactment. In other words, that there is another enactment which says that if this official requires you to do so, you must give him information, that would apply but if he merely has the power to ask you then the banking authority would not be bound to do so. In that case I must amend my proposed amendment to read "to the disclosure of any information that is required to be disclosed pursuant to any other amendment."

Mr Speaker then put the question on the terms of the Honourable the Attorney General's amendment which was resolved in the affirmative and the amendment was accordingly passed.

HON ATTORNEY GENERAL:

The final set of amendments, Sir, to this sub-clause are to paragraph (g) and they are all related so I would propose to take them all together. To insert after the words "of any information" the words "being information relating to the nature or conduct of the business of a licensee authorised by a licence or the business of any other relevant person as defined in Section 50". Secondly, to omit the word "financial" in both places where it appears and substitute the words "deposit-taking" in each case. Thirdly, to insert in sub-paragraph (1) before the words "an interest" the words "or proposes to acquire" and, finally, to insert in sub-paragraph (11) before the words "control or supervision" the word "prudential". I think, strictly, the third of those amendments is not quite related to the others but if I can speak about the others first.

MR SPEAKER:

Yes, you can speak about the other first and then the final one.

HON ATTORNEY GENERAL:

The first, second and fourth amendments are intended to meet an area of concern as to the extent to which information will be disclosed by the banking authorities in Gibraltar to overseas authorities. It is not the intention to have this as a sweeping power of disclosure. We wish to limit it so that a disclosure that is made that relates to a licensee, the nature or conduct of a licensee's business rather than into a particular individual customer. A little bit wider than that it could also be disclosed if it relates to the business of a relevant person, but relevant persons are defined as persons who have some connection with the carrying on of the deposit-taking businesses so we feel that is reasonable. Instead of having it so wide as financial institutions, in other words, instead of being able to transmit the information to any financial institution overseas, we are cutting that back to deposit-taking bodies who supervise deposit-taking institutions overseas which is rather narrower and finally, it would not be any authority that supervises or controls it would be any authority that is concerned to prudentially supervise and control and we think those amendments, collectively, narrow down the scope or the basis on which the Gibraltar banking authorities can pass information to overseas authorities. That is the point of that amendment. The other amendment is really separate and is intended to authorise disclosure not merely where a person already has an interest in a deposit-taking business but where he has the intention of requiring it and so disclosure can be made in anticipation. Sir, I move accordingly.

Mr Speaker then put the question in the terms of the Honourable the Attorney General's amendment which was resolved in the affirmative and the amendment was accordingly passed.

Clause 73 was agreed to and stood part of the Bill.

Clauses 74, 75 and 76 were agreed to and stood part of the Bill.

Clause 77

HON ATTORNEY GENERAL:

Sir, the amendment I have to propose is that this be renumbered as sub-clause (1) and that the following sub-clause be added "(2) every reference in every other enactment to the Banking Ordinance of 1956 shall from the commencement of this Ordinance, unless the context otherwise requires, be construed as including a reference to this Ordinance". Sir, this is a normal technique in replacing an ordinance and it is merely

a drafting device to catch consequential references.

Mr Speaker then put the question in the terms of the Honourable the Attorney General's amendment which was resolved in the affirmative and Clause 77, as amended, was agreed to and stood part of the Bill.

Clause 78

HON ATTORNEY GENERAL:

Sir, there are four amendments here. They are all related in the sense that a number of very minor gremlins seem to have crept into this clause and I would like to take the opportunity to correct them. The first amendment is in sub-clause (3) after the words "27 as" to insert the words "to". The second one is to omit from the last line of sub-clause (4) the word "or" and substitute the "or". The third one is to omit from sub-clause (7) the words "Sections 5 and 6" and substitute the words "subsections (5) and (6)". Finally, to omit from sub-clause (7) the expression "(5) and (6)" and substitute "and (7)". I move accordingly.

Mr Speaker then put the question in the terms of the Honourable the Attorney General's amendment which was resolved in the affirmative and Clause 78, as amended, was agreed to and stood part of the Bill.

Clause 79 was agreed to and stood part of the Bill.

MR SPEAKER:

I would remind the House that we still have to deal with Clause 7 which I understand will be subject to an amendment which is not quite ready yet so we will now recess until this afternoon at 3.15 when we will continue with the Bill.

The House recessed at 1.15 pm

The House resumed at 3.25 pm

MR SPEAKER:

I would remind the House that we are still in Committee and we are still considering the Banking Bill. I believe there is an amendment to Clause 7 which we deferred.

HON ATTORNEY GENERAL:

We have considered the matter in relation to Clause 7, the point raised by the Honourable and Learned Leader of the Opposition, and we think changes to it are necessary. There are three particular exemptions which need looking at, the first is that relating to building societies, the second that relating to friendly societies and the third which was the one which was in fact mentioned, is that relating to insurance companies. Perhaps, Mr Speaker, I should go through my motion which is to add to paragraph (c) the following words at the end of paragraph (c), "in respect of any business that it is authorised to undertake by virtue of its registration" - and that relates to building societies - to omit paragraph (b) altogether and to renumber the present paragraph (e) as paragraph (d) and then to add to paragraph (d), as so renumbered, the last paragraph, the following words, "in respect of any insurance business that it is authorised to carry on pursuant to a certificate issued to it under that Ordinance." Dealing with the three points separately, in the case of the Building Societies Ordinance, that Ordinance says that a Building Society may be formed for particular purposes and that the purpose in fact is that you may form a society to receive subscriptions from members in order to raise mortgage money to lend back to them. Under the Building Societies Ordinance, the Registrar and the Financial and Development Secretary have powers to control the activities of building societies, we also have powers to control advertisements under this Bill, and we think that, collectively, the amendment plus the two other points I have mentioned will be sufficient to ensure that they don't intrude into areas outside their proper limits of activity. The case of friendly societies is slightly different. I looked at the Ordinance at lunch time and I cannot see in it that it definitively sets out the various purposes for which a friendly society can be formed and we most certainly would not wish to allow an outlet that friendly societies can get into the banking business without a licence. What we therefore propose is to delete this from the absolute exceptions and to cover it after due consideration and before the Bill becomes law by an order under sub-clause (3). In the case of insurance companies the matter is clear-cut because a certificate for an insurance company under the Assurance Companies Ordinance defines the type of insurance business they can undertake and so there we are simply saying to the extent that the Company is operating pursuant to such a certificate it is exempt from this Ordinance which I think is absolutely correct and I am obliged for having that point brought to my attention. It would be necessary for the sake of completeness to make a small consequential amendment to Clause 50, which I know we have already covered Mr Speaker.

MR SPEAKER:

We will have to wait until this amendment is carried.

HON ATTORNEY GENERAL:

Yes of course, I move accordingly.

Mr Speaker proposed the question in the terms of the Honourable Attorney General's amendment.

HON P J ISOLA:

What is the certificate that is issued? Is it just that you are an authorised insurer or what?

HON ATTORNEY GENERAL:

The Ordinance itself sets out the various types of business that are insurance business and the certificate issued to each particular company says what insurance business that company can carry on.

HON P J ISOLA:

I see.

HON A J HAYNES:

Sir, what is the position as regards captive insurance companies in respect of their entitlement under the certificate? Just how close is the active business of a captive insurance company in relation to the deposit-taking business?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

They will get a certificate in the same way defining the type of business which they can carry out as would, say, a life company or any other company. What they are allowed to do would be spelt out in that certificate so that it would be quite clear that they would be able to carry on that business out with the Ordinance but only that business and no other business.

HON A J HAYNES:

Is it not true to say, Mr Chairman, that as a captive

insurance company with a certificate they would be able to do business rather similar to that envisaged in the deposit side of banking without having the constraints a bank would have in the same business?

HON ATTORNEY GENERAL:

The business for which certificates are issued is in one way or another insurance business.

Mr Speaker then put the question in the terms of the Honourable Attorney General's amendment which was resolved in the affirmative and Clause 7, as amended, was agreed to and stood part of the Bill.

HON ATTORNEY GENERAL:

Mr Chairman, I would ask if we could reconsider Clause 50 because there would be a necessary or desirable at least consequential amendment to Clause 50.

MR SPEAKER:

What is the amendment that you are proposing?

HON ATTORNEY GENERAL:

The amendment I propose is to add to the end of that clause the words "to the extent that that person is exempted from the provisions of Sections 5 and 6". If I can explain briefly, the clause concerned defines who are relevant persons and at present says that a relevant person does not include anyone who is exempted under Section (7) but because we are narrowing the scope of the exemption under Section (7) I think we should add these qualifying words "to the extent that that person is exempted."

Mr Speaker then put the question in the terms of the Honourable Attorney General's amendment which was resolved in the affirmative and Clause 50 was accordingly further amended and stood part of the Bill.

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

MOTIONS

MR. SPEAKER:

We are going to Government motions again. We are dealing now with the motion which was moved by the Honourable and Learned the Chief Minister. The position is that the motion was moved, the Honourable and Learned the Leader of the Opposition replied, Mr Bossano was contributing to the motion and he was seeking the views of both the Chief Minister and the Leader of the Opposition as to how his amendment was going to be received before he made it.

HON CHIEF MINISTER:

He had some idea about part of the motion which he didn't like and there was a sincere attempt by all parties to see whether we could come to a consensus motion but that has not been possible. I think as far as I am concerned now the Honourable Member is on his feet proposing an amendment.

HON J BOSSANO:

I gave an indication, Mr Speaker, of the reason why I could not support the motion as it stood and of the part of the motion that I thought required deleting and, in fact, I did not move an amendment deleting those words because I was seeking an indication as to whether that would be supported if it was moved, that is the situation. The position as I was saying was that I cannot accept the limitation on the commitment to support and sustain the people of Gibraltar for so long as the restrictions make this necessary particularly since as I recalled earlier, I had made the point publicly that the removal of the restrictions would have had a traumatic effect on the economy of Gibraltar, in my judgement, equal in magnitude to the introduction of the original restrictions and therefore it is clear to me that if we are talking about restrictions, the sudden removal of the restrictions involving a new economic environment for Gibraltar could well require a level of assistance perhaps even greater than that which has been required in the past. Additionally, the point that I have made is that the obligation of Her Majesty's Government to sustain the economy of Gibraltar arises out of the nature of our constitutional relationship because we are not an independent state because even to borrow money we require to have clearance from the United Kingdom Government. I recognised that the British Government has committed itself only to the extent of supporting and sustaining the people of Gibraltar for so long as the restrictions are necessary but I have also said, Mr Speaker, that I do not agree that it is factual to say that we were not getting assistance

before the restrictions or that the assistance was less than what we are getting today. It is certainly not factual to say this of the last 18 months. One can certainly say that in the last 18 months the level of aid has been below what it was before the restrictions were put on and in fact I think when I raised this point in a recent television appearance with the Honourable and Learned the Chief Minister, he said that way back in 1964 and 1963 when we were getting Commonwealth and Development Welfare Funds they were putting for housing projects £1 to every £2 we put. Well, in fact, in this year's estimates out of a £9m programme, we are putting £6m and they are putting £3m, which is £1 for every £2, and that is not due to the restrictions because that was happening in 1964. It seems to me almost, again, that to suggest that we need to express confidence in that they will keep to public commitments, is almost to saying that we doubted that they will keep to their public commitments and I have asked the House, in fact, to express confidence that the British Government, notwithstanding the fact that there is no commitment, will support and sustain the people of Gibraltar should the need arise whether there are restrictions or whether there are no restrictions. I find it very difficult to understand why this is unacceptable to the rest of the Members of the House of Assembly. I recognise that we cannot say that we have confidence in a commitment that they will do something when the commitment is not there. This is why accepting that point I said originally: "Well, let us take both commitment and restrictions out." Subsequently, after discussing the matter with the Honourable and Learned the Chief Minister, I suggested what I thought was a rather cumbersome way of dealing with the problem but to re-introduce the word "commitment" by having the motion amended to say that we expressed our appreciation for their continued commitment to support and sustain the people of Gibraltar in overcoming the adverse effects of the restrictions and that we had confidence that they will provide support for the Gibraltar economy whenever this is necessary in discharge of the obligations that the British Government has got as the power administering Gibraltar. This, I am afraid, Mr Speaker, I have been told is not acceptable either and therefore I am going to move an amendment which I consider accurately reflects what I feel on this matter and also which I consider meets fully the objections that have been raised by other members. What I would like to do is to first of all split up paragraph (4) because the first part of paragraph (4) expressing our appreciation to Her Majesty's Government for upholding the right of the people of Gibraltar to determine their future obviously I do not want to vote against, and I cannot vote for half a paragraph. I am asking that the words after the word "future" in paragraph (4) should be deleted and that a new paragraph (5) should be added to read as follows: "(5) Welcomes the continuing commitment of Her Majesty's Government to support and sustain the people of Gibraltar in overcoming the effects of the restrictions and is confident that Britain will support the

economy of Gibraltar whenever this is necessary." That is the amendment that I am formally moving, Mr Speaker. I am deleting Mr Speaker, in paragraph (4) all the words after the word "future" in the third line so that paragraph (4) will only retain the second part because in fact if I am unable to obtain support for the amendment, then I would still wish to vote in support of that part of the existing paragraph (4) since I have no quarrel with that. It is because I cannot vote for part of a particular paragraph that I am saying I am moving the deletion of the part that I cannot vote for so that I can still vote for what remains behind and I am proposing that the remaining part, the part that I am deleting, should be restored in a new paragraph (5) with the additional words saying that we have confidence that Britain will support the economy of Gibraltar whenever Gibraltar needs it, whilst at the same time welcoming the commitment that exists to support and sustain the people of Gibraltar whilst the restrictions last.

Mr Speaker proposed the question in the terms of the Hon J Bossano's amendment.

HON CHIEF-MINISTER:

Mr Speaker, I will speak on the amendment now. Whilst I agree entirely with what the Honourable Mr Bossano said at the beginning about the level of aid, it is true that in the last 18 months we have except for the \$4m which has been full of conditions, the question of aid has been suspended for a number of reasons and it is in order to continue to commit or rather to make the British Government continue in its commitment of support and sustain that the phrase in paragraph (4) is the way it has been put in order to make clear that the commitment is there and behind the motion, in the efforts that we are making, to say that the level of aid must be restored. They are waiting for what is called the package of the closed Dockyard and the open frontier and all that, well, we know one of them is not on and we don't know what has happened to the other one but there is no doubt about it that for reasons better known to themselves the question of aid has been in suspense. I make no bones about that and we are very concerned about this, we have said so in public we have told the Secretary of State, the Financial and Development Secretary has also seen people at the ODA about these matters at the level of officials and this is a matter which we have to pursue with great energy because otherwise we are in for a difficult time. The point is that the wording of the second part of the motion where the first part in paragraph (4) is taken, leaves it so vague that, really, it means very little. It says "welcomes the continuing commitment of HMG to sustain and support the people of Gibraltar in overcoming the effects of the restrictions." There is no problem about that. But the words that come after, of course may be alright from the point of view of getting a motion but

what do they mean? "and is confident that Britain will support the economy of Gibraltar whenever it is necessary". Well, it is necessary now, we are having difficulties, and the other difficulty that we have is that if we make a very broad statement of need of help from the United Kingdom then the whole basis of how our economy is run, what is being done, how are people living and all that, comes in to play and the last thing we want is for Britain to think that we are dependent on her other than as an emergency because otherwise Gibraltar although its got its fair share of aid without asking much for it, it was just the handouts that were given to dependent territories, it is quite clear that prior to the restrictions Gibraltar's economy was run in a way that did not require the level of aid that came about as a result of the difficulties that were encountered by the economy with the restrictions. I feel that before the House takes a vote on a motion of this nature we have to be careful what we are going to say because after all the motion has got to be communicated because that is the purpose, apart from satisfying ourselves that we have been able to make public our views on this matter on the first occasion since the Spaniards reneged on the commitment on the 8th of January to open communications and I fear that these words could be interpreted in London as an expectation that we are forever to be helped by the British Government. Of course, the constitution has an ultimate responsibility by the British Government to underwrite the economy of Gibraltar, that is true, but how that can be done is another matter because immediately the situation comes when the question of the budget is the subject of aid as there are many grant aided territories, then they come in and you can't buy a bicycle or a typewriter without having the consent of London. That is not the sort of help that we want in Gibraltar. The development aid help has been help for the infrastructure and not for the budget and we have to maintain, as far as we can, that the help we get from Britain is got for infrastructure and that does not involve aid to the budget because aid to the budget then deprives us to run the economy the way we think and then they would have a say even though the aid may be 1/5th of the total budget provided by the territory. Immediately there is a grant aid, if the territory is grant-aided then in come the Treasury people to see how you run the little pieces that they give you. The best feature of the development aid programme is that they do keep a control on the aid side but not on the running of the budget because that is run with money which we raise ourselves. Even in the aid fund, they are now becoming so difficult that they want to know how you are running the rest of your economy as to whether the aid is required for this purpose or that as has been shown clearly that for the time being the aid, certainly the \$4m tranche for which there were no pre-conditions put at the time it was offered, they have refused bluntly to allow any of that money to go to the social services such as housing. Therefore, we have to be careful how we ask for the aid in order not to appear to become completely dependent on British aid though relying

of course in the British Government commitment to support and sustain the economy in difficult circumstances. I say that about the amendment alone now and my Honourable Colleague will be later on proposing an amendment to the amendment that might meet part of the way but meet also the objections that we have.

HON P J ISOLA:

Mr Speaker, I must say that this particular amendment to me is better than the other one. I think it is more palatable than the other one which talked of "administering power" and all the rest which I don't like very much. It referred to Britain as the administering power and so forth and I didn't like the phraseology. If I can deal with it in two sections. It says: "Welcomes the continuing commitment of FKG to support and sustain the people of Gibraltar in overcoming the effects of the restrictions." I would just stop there for a moment and say we have had those restrictions since 1968, we haven't really overcome them and with a closed frontier there are certain constraints in the economy of which we are all aware and therefore what we need, really, is support and sustenance of the economy, you don't necessarily overcome them.

HON J BOSSANO:

You don't overcome restrictions, you overcome the effects of the restrictions.

HON P J ISOLA:

This is a matter of argument. You can have a lot of people saying that with the frontier closed. Gibraltar's economy will never be right. There are people who say that, I am not saying they are right. I think it is important to put the commitment as it has been given in the motion, I think that is important, we are not misrepresenting what somebody else has said. There is not that much difference I can see but why not put it in the way it has been given, as we have got it. We cannot change what the British Government has said. On the second one, if we take that off and leave our paragraph (4) as it was, then you are left with a paragraph (5) "is confident that Britain will support the economy of Gibraltar whenever this is necessary." Well, Mr Speaker, that is a very general phrase. Who decides whether it is necessary? London can say: "There is no need to give you anything. Why should you have full employment? We in England have 12% and in Europe they have got 10%. You are enjoying a very high standard of living so it is not necessary for us to give you anything. You can put things right yourselves by for example increasing your rates of tax still higher and making people pay more for this that and the

other." That is not the sort of general phrase that we want. The draft that was circulated and which I believe is going to be proposed by another member of the Government and with which I agree, what that seeks to do is what I think we all want. One thing are the Spanish restrictions. As long as the Spanish restrictions are on there is that commitment: "We will sustain and support you we will beat them". It is very important that that stays independently of Britain's obligations as the colonial power or as the mother country or whatever. As far as Gibraltar is concerned, obviously we would like to make our own way in life and support ourselves, any self-respecting people want that, but of course there are constraints on that as well, it is not always possible to do it. What we want is protection from the effects of outside decisions, for example, closure of the Dockyard. Someone says, "Well we've got to close the Dockyard because the Ministry of Defence has decided that they don't want to repair any more ships in Gibraltar." That is a major disaster with a frontier open or with a frontier closed. We need protection against that sort of thing, and I think Britain is prepared to give it and they have said it and we have got to express confidence in that sort of thing. In other words what we draft, what goes out is something that must appear reasonable to us and reasonable to anybody who has a reasonable knowledge of Gibraltar and of the way things go in a democratic society. That is why, Mr Speaker, as I say, this particular amendment to me is more palatable than the other one I saw but is not as palatable as the one that I saw before, which I believe is going to be put forward and I would go along with, and I want the commitment of FKG, I think it ought to be expressed in the way it has been stated by them otherwise it loses its strength and its value. We won't be voting in favour of the amendment, not because we particularly dislike it, but we prefer the other alternatives.

MR SPEAKER:

Does any Honourable Member wish to speak on the amendment which is proposed? Then I will ask the Honourable Mr Bossano to reply.

HON J BOSSANO:

Mr Speaker, I said when I moved this amendment, that I had phrased it in a way that I thought met the objections that have been raised previously. This is why, in fact, it has been phrased the way it has. I cannot for the life of me understand why it is that if I put in an amendment of mine the word "necessary", I am told that, well, who decides what is necessary. Britain might turn round to us and say: "We have got 12% unemployment, we've got economic recession and so on, and therefore this is valueless because I am confident that they will support the economy of Gibraltar whenever it

is necessary, but necessary is undefined." And yet, if necessary appears in the motion put forward by the Honourable Member, it does not suffer that defect. Surely, there is nothing to stop the British Government that is willing to say to me in the case of "necessary" in this amendment: "Ah, but we've got 12% unemployment," to stop them saying to us: "Ah, yes, I know that you are suffering from the restrictions but of course you have only got 3% of unemployment even with restrictions so it is not necessary to do anything more for the time being until you go beyond the 12% we have got in England."

HON P J ISOLA:

If the Hon Member will give way. I think he is falling into a very, very dangerous trap. The support and sustain because of the restrictions, everybody knows what that means, including the British Government. That is a "necessary" that has a meaning, we know what it means. The other "necessary" is a different kind of "necessary", and I think he should not argue that it is possible for the British Government, whilst there are restrictions, to argue in the way he is arguing. When the restrictions have gone, that is another story.

HON J BOSSANO:

No, Mr Speaker, I do not agree with the Honourable Member. I do not agree with him. I think that the argument that he has put applies to both "necessaries" and not only that. If he says that it does not apply, then perhaps he can tell me on what his confidence is based because it would seem that the British Government have not thought it necessary for the last 18 months. The Chief Minister has just confirmed that aid is in suspense and the restrictions are still on. Why is that? Because their definition of what is necessary and our definition of what is necessary happens to differ at this point in time. If the Honourable Member says that what I am saying is going to put ideas into the heads of the British Government then I am afraid he is mistaken, it seems to me the idea is already there. If the Honourable Member is saying that there are strings attached to the £4m and that they want to know how we are spending the rest of the money that we put ourselves before they decide what they give us money in respect of social services then clearly, their interpretation of their commitment of the level of support and sustain that Gibraltar is entitled to expect is determined by what they think is necessary, that is necessary for what? Necessary for us to have a certain standard of living and, presumably, if the restrictions are still on and we have a higher standard of living than in the UK, their argument will be: "There may be restrictions, but it isn't necessary for us to give you aid because, in fact, you are better off than we are." That is an argument that is being

used because it certainly has been put to me by Mr Roberts of ODA, that in terms of per capital income we are not entitled to aid. I don't like that being there in the first place, Mr Speaker.

HON P J ISOLA:

Mr Speaker, if the Hon Member will give way. If he is arguing that way then his amendment is still more dangerous because he refers to overcoming the effects of the restrictions and what he is surely arguing is that that is what he is being told now, the Gibraltar Government is being told they have overcome the effects. We don't want the overcoming, we want the supporting and sustaining while they are on.

HON J BOSSANO:

Mr Speaker, it seems in any case that what we want isn't really going to decide what is going to happen, it is what the British Government wants and what I think we are saying is, what we have confidence in the British Government doing.

HON CHIEF MINISTER:

We could be arguing about this for a long time. The only point, of course, is that the policy of support and sustain having regard to the restrictions, has got a performance, a proved performance up to 18 months ago that has met with our aspirations in that respect, that is to say, since 1969 till 1980, or early 1981, it has had the effect we wanted and we have had the help we wanted. It is in suspense now but there is a policy, or what the Spaniards would call a doctrine of help which has had its effect. It is in suspense now but it has a past performance to which we want the British Government to continue to commit themselves.

HON J BOSSANO:

I accept, Mr Speaker, and I said so earlier on, that in fact if we are so keen to express our confidence that the commitment will be kept, it suggests that there is a particular reason for wanting to do that. Because if a commitment is given and everybody is confident that that commitment is not in doubt, then the insistence on reasserting our confidence that it is still there is not as important as it obviously is. In any case, I must restate what I said at the beginning. I would not want the House to think that I agree with the analysis about the level of support and sustain of aid or call it what you will, that we have been

getting as a result of the restrictions being any significant increase on what we were getting before because I do not think the facts prove it. For the last 18 months it has been in suspense and the restrictions have been in effect for the last 18 months and we are confident that the commitment has not been broken. I would go further than that, Mr Speaker, and I have gone further than that. I have said that if we care to look back over the last 20 years and if we care to analyse the proportion of money that we spent on housing, on social services or on anything else, which we provided ourselves and which the United Kingdom provided, the proportion has been going down and the proportion was higher before the restrictions than after the restrictions, there hasn't been an increase in aid after the restrictions, there has been a diminution. My analysis, I can tell the House, I have put outside this House to people who have come from UK who have confirmed that the policy was linked before to a particular type of economic structure in Gibraltar. Let us be clear about that. We have a situation where people in Gibraltar were very badly paid and you had a very large MOD presence in Gibraltar where the UK departments were effectively providing a hidden subsidy to the low wages for people who resided in Gibraltar by having heavily subsidised houses built with Government money from UK. We charged that equation to our benefit because in fact the Trade Union Movement raised the wages to the UK level and the Gibraltar Government said: "the aid is still the aid and we still expect the same level of aid." The dramatic improvement in the standard of living has been because to the extent that low wages were compensated for by aid before, when you put the wages right and you keep the aid at the same level the total package is bigger. And it might have made a lot of sense at that time because if you have a situation as you had going back to the 1950's, where one third of the labour force was living in Gibraltar and two thirds was living outside, it made more sense to subsidise the rent of one third than to pay higher wages to the entire labour force, of course it made sense. But the analysis Mr Speaker, is something that figures can prove over the years and I can tell the House that it has not been denied by officials from UK but now they are looking at it from a different angle. I cannot understand why it is that the sentiment that is reflected in the motion is in any way set to be insufficient in giving us an expectation of support from UK, whereas to talk about protecting Gibraltar against other major threats to its economy does give us something that this doesn't give us. Why is it that we cannot be confident they will support the economy if necessary and we cannot be confident that they will protect Gibraltar against threats to its economy. Who then will decide whether the economy is under threat, us or the UK? Who will decide to what degree it is protected? Is it going to be protected to the standard that we have got today or is it to be protected so that we don't go beyond 12% unemployment? All the same considerations apply. At the end of the day the one who pays the piper calls the tune and we all know that. I am not

happy about the original thing. If I had had the opportunity to be asked my views I would have said so before we got to the House. The only reason why I have drafted the amendment that I have drafted in the way that I have, is in an attempt to reflect my own feeling without depriving the majority in the House of the way they feel about it. I have to say, Mr Speaker, that when we are talking about commitments and we are talking about the position of the British Government, we cannot in fact ignore what is happening daily. While we are in this very House of Assembly we have a situation where on the 7th of July, the Prime Minister says in the House of Commons: "Spain cannot enter the Common Market as long as her side of the border with Gibraltar remains closed." A couple of days later, Lord Belstead says in the House of Lords "The position of the British Government is that it is inconceivable." Well, which is it because they don't mean the same thing any more than "necessary" means the same thing as "protecting the economy."

HON A J CANEPA:

He uses diplomatic language and she uses plainer and more straight forward language.

HON J BOSSANO:

Well, I prefer her language to his, that is all I can say on the subject. Perhaps, I may have a hidden ally in Mrs Thatcher because as the House well knows, I am not very comfortable with diplomatic language myself so maybe she will respond to my language which tends to be undiplomatic the same as I am responding to her. I commend the amendment to the House.

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

The Hon J Bossano:

The following Hon Members voted against:

The Hon A J Canepa
The Hon Major F J Dellipiani
The Hon M K Featherstone
The Hon Sir Joshua Hassan
The Hon A J Haynes
The Hon P J Isola
The Hon A T Loddó
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 Zammit
The Hon D Hull
The Hon R J Wallace

The following Hon Members were absent from the Chamber:

The Hon I Abecasis
The Hon Dr R G Valarino

The amendment was accordingly defeated.

MR SPEAKER:

We now have the original motion before the House.

HON A J CANEPA:

Mr Speaker, as the Honourable the Chief Minister has indicated in his earlier intervention, I am proposing to move an amendment to the original motion before the House which we very much hope will meet quite a part of the way the arguments and the views put forward by the Honourable Mr Bossano. If he could see his way to voting in favour of it of course it would be so much the better. The amendment is being moved against the background of the view, as the Chief Minister explained, which is held in certain quarters in the United Kingdom, a view which is indicative of some reluctance in providing assistance to Gibraltar even on the legitimate grounds of the effects of the Spanish restrictions. I think Honourable Members are aware of the oft repeated statement in the House that we have been having difficulties with ODA where the view has been taken that the standard of living in Gibraltar is sufficiently high and that we should therefore not be entitled to the same degree of aid as we have had in the past or which other territories in the Third World, in particular, require. If we had accepted the amendment moved by the Honourable Mr Bossano, I think the danger was evident that their arguments could have been strengthened if we were to suggest that Britain has in any way a permanent or an open-ended commitment to maintain the people of Gibraltar at our present standard of living. What we are proposing to do with the amendment, Mr Speaker, is to point in the direction that aid received from Britain should help to correct the distortions in the economy which have been brought about by the restrictions, distortions which will continue even after the lifting of restrictions so the view that we take and I think it is shared by the official Opposition, is that economic aid may well be necessary even after the restrictions are removed, for as long as the more serious effects continue to be felt. Whilst not moving in a direction of an open-ended commitment, whilst not committing Her Majesty's Government to that, we hope to go part of the way along that road and the

amendment that I am moving which refers to major threats to the economy not only includes the question of the restrictions or the lifting of restrictions, but it also covers the other major threat to the economy which is posed by an action of Her Majesty's Government on doing, namely, her intention to close Her Majesty's Dockyard next year. There is a commitment on the part of Her Majesty's Government to support and sustain an alternative strategy for our economy. Her Majesty's Government have already provided funds for studies on diversification of the economy, though the results are disappointing, and I think we should also in our motion, be underlying the commitment that we consider Her Majesty's Government has if she cannot be dissuaded from her intention to close the Dockyard, to give us assistance in another form, be it in a commercialisation of the Dockyard or something else that will maintain, certainly, existing levels of employment, existing levels of income as far as that is possible and therefore the existing standards of living that we enjoy. Sir, the amendment seeks to delete the word "and" at the end of paragraph (3) of the motion and add it at the end of paragraph (4) in order that we can then add a new paragraph (5) as follows: "(5) is confident, further, that Her Majesty's Government will also protect Gibraltar against other major threats to its economy." and I so propose.

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

HON P J ISOLA:

We support that amendment because that is what, basically, is required, protection against major threats, and we all know the major threat that exists today from which we require protection. I think there is a lot of merit in making a distinction between the support and sustain in the substance of the restrictions from Spain which obviously are likely to go on for some time, and the general obligations of London to protect Gibraltar. I think this amendment meets that and I think it meets, too, possibly the valid point made by the Honourable Mr Bossano at the beginning of his address a day ago, where he wanted to go further that was in the motion. I don't object to that but I think the way to put it is the way that it has now been moved and we would certainly go along with that amendment, Mr Speaker, and we would hope that it would meet Mr Bossano's fears on the matter.

MR SPEAKER:

Do you want to say anything?

HON J BOSSANO:

Yes, Mr Speaker. It doesn't meet my point, I will not be supporting the amendment. I am sorry, in fact, that in moving the amendment the opportunity was not taken to separate paragraph (4) which, as I said earlier when I was moving my own amendment, contains, in my judgement, two separate and distinct matters. Our appreciation for Her Majesty's Government upholding the right of the people of Gibraltar to determine their future, to my view, is not necessarily linked to the question of support and sustain for as long as the restrictions continue. They are two separate areas and I will have to go against this particular paragraph which unfortunately, as I said, contains the first part to which I subscribe entirely and where I feel that the present statements by Her Majesty's Government have been the best that the people of Gibraltar have ever had in highlighting their rights of self-determination and in protecting that right. Although I will not be voting for paragraph (4) I regret that in doing so I am not able to vote for that part. Clearly, had I been able to accept this I would have said so earlier and save the House a lot of time.

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

The Hon A J Canepa
The Hon Major F J Dellipiani
The Hon M K Featherstone
The Hon Sir Joshua Hassan
The Hon A J Haynes
The Hon P J Isola
The Hon A T Lodd
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 I Abecasis

The amendment was accordingly carried.

MR SPEAKER:

We now have the original motion, as amended, before the House.

HON MAJOR R J PELIZA:

Mr Speaker, I would like to say a few words on the motion as amended, I am very sorry and I hope that by the end of the debate on this motion my Honourable Friend Mr Bossano will be able to join all the other members in supporting this motion. I say so because I think his contribution has been very important and I, personally, would not have been able to go along with the motion if this last amendment had not been introduced because without it I thought the motion was lame in that here we were saying that we agree with the support and sustenance of Gibraltar during the restrictions but we say nothing at all of what the situation would be if after the restrictions are lifted we found ourselves in economic difficulties which is possibly very likely. If we recall, when Lord Hughes came here with the Gibraltar Group, this is one of the points he himself made, that he was very surprised that the undertaking was only to support and sustain Gibraltar during the time of the restrictions and I know that he went back and he tried to do his best to change that position. I don't think in fact, that this has been achieved yet. This is why I say that once we move into this area, particularly in the economic climate of the United Kingdom today, I think we have to be somewhat specific about it and not give the impression that all we want is as soon as we find that our standard of living is coming down, perhaps for reasons to do with ourselves and not due to outside pressure, or for reasons to do with the world, generally, and not to do with anything specific that attacks Gibraltar as such, that we may expect Her Majesty's Government to come along and give us that extra money to allow us to keep our standard of living. I do not believe that under the present climate that could be attained and although we could talk about that academically, I doubt very much whether in practice that would be forthcoming. This is why I think the amendment is appropriate in that it says very distinctly "against major threats to its economy."

HON J. BOSSANO:

Mr Speaker, the Honourable Member has said that we cannot expect if it is something that we produce ourselves or it is something due to the world climate, we cannot expect the British Government to come to our aid. Well, it doesn't say here where the major threat has got to come from. Suppose there is a banking crisis and there is a lot of bankruptcies in Gibraltar, that would be a major threat to our economy.

Would we expect the British Government to protect Gibraltar or not?

HON MAJOR R J PELIZA:

I think that in the sense that they would protect Gibraltar, yes. I specifically said just to hold our standard of living. Because if the standard of living is going down for the same reason, say, the cost of oil, world oil, were to go so exceedingly high that it would effect the economy of the world, generally, in fact, we are going through that sort of depression today and that is one of the reasons why obviously, the standard of living in Britain is going down, and I doubt very much whether we could make a case that we want a higher standard of living that they have but that is effected by this world depression which just doesn't only effect Gibraltar, it is affecting the whole world and particularly, I think, if it affects Britain, and I don't think that if we just say, as necessary, as we said before and I think this is what my Honourable friend was trying to say in the "as necessary" directed at support and sustain is a narrow one. It has to do with an undertaking that they have given us and it is connected with the restrictions but when you say "as necessary" just like that, it is so wide that it implies anything and in my view because you make it so wide it loses strength and I think it would lose support in the United Kingdom who at the end of the day are the people that we have got to convince. We can be very convinced here but if we cannot convince the people who are supposed to give us the aid or the people who will put the pressure on Her Majesty's Government to give us the aid who are the Members of Parliament then, really, I don't think we are achieving very much. Mr Speaker, I will support the amendment and I am also very glad that Mr Bossano brought up the point because I certainly could not have gone with the motion as it was before as a matter of conscience. I do hope he give a bit more thought at the end of the day. We all have to make compromises, we cannot all have it our way. He himself knows perfectly well when he talks about his party's directives that he comes here and votes perhaps, for something that he is not in agreement with but because the majority in the party said so he comes along accepts the discipline and votes. I think very rightly unless of course it is a matter so serious, so fundamental, that of course he couldn't be able to do so. I don't think that the changes that there are in this motion are so serious and so fundamental that he couldn't go with it. I hope that at the end of the day he will be able, as we have always done, find a way of saying: "Fair enough, I know it is not exactly what I wished for, it is not my loaf of bread but it is at least three quarters of it and I want to ensure that Gibraltar gets those three quarters. If I had my motion perhaps they would get one but with this other motion perhaps they will get three quarters". I don't think, in fact, it is going to be so easy as all that and I would like to go a bit more

into the motion because if the motion has been brought into this House it is because we are going through a very serious situation otherwise the motion would never have been brought here. This motion has been brought to the House because the Lisbon Agreement is either dead or dying and some people are worried whether in fact it will suddenly come back to life, so it is one of those situations where we don't know whether it is better dead or alive and that is a problem, a very serious problem. The situation as we had before in that most people wanted the frontier not to open, even some of those who supported the Lisbon Agreement didn't want the frontier to open but didn't want to say that we were the people who were stopping the frontier from opening. In a way, from the point of view of the United Kingdom, it has worked well because it isn't us who have stopped the frontier from opening but the Spaniards themselves. This is very important because in my view one of the big difficulties that the Government and the opposition have over the Lisbon Agreement is that there is quite a large section of opinion in the United Kingdom, particularly amongst the intellectuals, the academics and the media, who believe that one has to be reasonable and even today there are lots of people in the United Kingdom who believe that it is us who are not being reasonable and, therefore, from the point of view of public relations, it is a very, very difficult exercise to carry out and garry with you public opinion in the United Kingdom. This was particularly so before the Falklands Disaster because one can sense that coming under the Foreign Office, we are under a Ministry with divided loyalties. The fact is, Mr Speaker, that it was after the Falkland Islands that I think the attention of the British public was more directed towards our situation and we got much greater understanding of the difficulties we were going through and what we could expect if we gave in. Also, I think, the fact that on three occasions the Spanish Government did not abide by their undertaking, have put us in a very strong position. So the Falkland Islands and the fact that the Spanish Government has not abided by their undertaking has given us tremendous strength. Luckily, we find now that the Prime Minister herself is much more outspoken, Mr Speaker, than the Ministry that is supposed to look after us. This motion has been brought to this House because of the obvious difficulties that we have been through and the possible difficulties that are facing us. Economic through the closure of the Dockyard, politically, because we do not know what is going to be the reaction from now onwards. So, Mr Speaker, my belief is that this motion is sending a signal to the Foreign Office and Her Majesty's Government and, I hope, to Parliament. But that signal, Mr Speaker, is a signal of words and I believe that something more than this should be done connected with this motion. I think considerable attention can be brought, because it has been stated now very categorically in the last Press Release that I have got, that the Dockyard is going to close, that the little extra bit that we have said here about major threats, that is a major threat that you might say has nothing to do with the restrictions since this has not been

brought about by the restrictions, this has been brought about by a change of defence policy of Her Majesty's Government and therefore this has got to be brought to their attention, it is a very serious situation for Gibraltar and this of course doesn't come under sustain and support or the restrictions because this has nothing to do with the restrictions. Lord Belstead will be coming here very soon. I am not sure that in some form or other the people of Gibraltar should not demonstrate to him how important this is. There should be a mass demonstration of welcome to him to tell him what the situation is because it is vital and important that the people of Britain know exactly what is happening because we shall get their support if they see that through the closure of the Dockyard we are going to have serious repercussions, serious political repercussions in Gibraltar. I commend both to the Chief Minister and the Leader of the Opposition and the Member of the other party that they should get together because I know there will be talks amongst the officials and perhaps amongst the Ministers and members of the House and perhaps the Trade Unions and so on but nothing is more effective than a public expression of the seriousness of the situation. We had, if you remember, when first we had the question of British Citizenship, how a very orderly demonstration to Lord Thompson gave us the right to enter the United Kingdom, something like that might be very effective. I support this motion, the motion is good, but I think the motion needs backing, needs public backing and I hope the lead will come.

MR SPEAKER:

Is there any other contributor to the debate?

HON A T LODGE:

Mr Speaker, I am always slightly amused every time I hear anyone referring to the Lisbon Agreement. They keep referring to it as if it were alive. Then they question where it is or whether it is sick. Well, Mr Speaker, to anyone who has eyes to see, the Lisbon Agreement is dead, it has been killed by the Spaniards and, consequently, we should, I think, in future, refer to it as the Lisbon Bereavement and it should be buried and forgotten. By this Mr Speaker, I do not mean to imply that I am convinced that there will not be other agreements, whether they be Strasbourg again, or Geneva, or Estepona, anywhere, I am convinced that at some time or another somebody will come up with another venue, with another agreement or another process and again we will have to be very, very wary. Mr Speaker, the motion today, I think spells out what everybody in Gibraltar feels and what everybody in Gibraltar knew but what everybody in Gibraltar would like to hear said out loud nonetheless and repeated as often as is necessary. I think the motion will be very well received, just as well received as the pronouncement of

Mrs Thatcher to the Scandanavian Television when she said quite categorically that the question of sovereignty was not up for discussion with Spain. I know that subsequently the Foreign and Commonwealth Office went to great lengths and great pains to try and gloss over this but the thing was said nonetheless and, possibly, we should not lose sight of the fact that Great Britain is always a master of diplomatic parlance, and she will have her say one way or the other. Spain, on the other hand, can only understand plain language and I think the language this time has been plain enough. I sincerely hope, therefore Mr Speaker, that both our friends and our enemies will take note of the motion before the House today, with particular reference to the part that says that the question of sovereignty is only for negotiation with Britain, not with Spain. Mr Speaker, in Britain today, as in 1939, there are a number of well meaning people, their hearts on the right place, I am sure, very well meaning but misguided. They believe, quite sincerely, that this delicate plant, this frail flower of democracy in Spain is alive and needs to be nourished and fostered. Well Mr Speaker, I believe in instant coffee, I believe in instant tea but I do not believe in instant democracy and this is what Spain seems to have acquired and far from being a delicate flower I think it is a plastic facsimile of the original as we were able to witness in the reporting of the Falklands crisis. Mr Speaker, perhaps this is an opportune moment to wind up and sit down but before I do, I would like to say that I think this is equally an opportune moment to begin to think of getting our House in order and getting on with the job of making Gibraltar viable both economically and politically. It is not that we want to turn our backs on Spain, obviously Spain has turned their backs on us, so we should look to Great Britain, forget Spain, until such time as she is prepared to be reasonable and to behave in a 20th century manner in a 20th century world. That you, Mr Speaker.

HON CHIEF MINISTER:

Mr Speaker, I have the feeling that there are members who would like to leave the House early today for some reason or other so I don't propose to take the time of the House in repeating oft repeated arguments which were raised, I think in some detail, in my opening statement on the motion. It is regrettable that our different approaches do not make it possible for the motion to have the full support of the House. We know that the spirit is behind the feeling of the motion, that part of it which the Honourable Mr Bossano doesn't like, it is different from the one that he does like but there you are this is perhaps, the essence of democracy that we can agree to differ though we know that the sentiments behind us all in this respect are the same. Had this been normal circumstances I would have gone through some of the statements made in the course of the debate and argued one or two points but I think that the matter is well trodden and that all I do is to commend the motion to the House.

The motion before the House now reads as follows:

"That this House:

- (1) deplores the policy of restrictive and repressive measures applied against the people of Gibraltar by the Spanish Government in its attempts to achieve a transfer of sovereignty over Gibraltar;
- (2) affirms the determination of the people of Gibraltar to continue resisting the said policy of the Spanish Government and not to yield to the said measures;
- (3) reiterates its view that sovereignty is not a matter for negotiation with Spain;
- (4) expresses its appreciation to Her Majesty's Government for upholding the right of the people of Gibraltar to determine their future and its confidence in Her Majesty's Government's commitment to support and sustain the people of Gibraltar for so long as the restrictions make this necessary; and
- (5) is confident, further, that HMG will also protect Gibraltar against other major threats to its economy."

Mr Speaker then put the question and on a vote being taken on paragraphs (1), (2) and (3) the question was resolved in the affirmative.

On a vote being taken on paragraphs (4) and (5) the following Hon Members voted in favour:

The Hon A J Canepa
The Hon Major F J Dellipiani
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 Dr R G Valarino
The Hon H J Zammitt
The Hon D Hull
The Hon R J Wallace

The following Hon Member abstained:

The Hon J Bossano

The following Hon Member was absent from the Chamber:

The Hon I Abecasis

The Hon Chief Minister's motion, as amended, was accordingly passed.

SUSPENSION OF STANDING ORDERS

HON ATTORNEY GENERAL:

Sir, I have the honour to move the suspension of Standing Order Nos. 29 and 30 in respect of the Landlord and Tenant (Miscellaneous Provisions) (Amendment) Ordinance 1982.

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

The Hon J Bossano
The Hon A J Canepa
The Hon Major F J Dellipiani
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 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 I Abecasis

Standing Orders Nos 29 and 30 were accordingly suspended.

HON P J ISOLA:

Mr Speaker, we object to this because we have had a number of Bills with lots of amendments, the Honourable 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 don't think that we are performing our duties as House of Assembly elected representatives of the people, being given almost no notice on 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, Mr Speaker, we haven't even had time to consider it, we haven't 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, 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 had two or three days and now we get a Bill today and 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 the Standing Orders require them to give all Members of the House seven days notice at least. We have not been given notice, this Bill wasn't even on the agenda for the House, Mr Speaker. We are not prepared to be rubber stamps.

HON CHIEF MINISTER:

Mr Speaker, I must say a few words on this. 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 as 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. If that is objectionable then we will not proceed with that. What we think is since we missed it last time, that last time we increased rents we did not pass it, it is extraordinary that with all this Action Group and so on that the Property Owners action group have never come forward and yet we have to think ourselves as in fact it would not be fair not to allow particularly having regard to the cost of repairs and so on, the very modest increase and it will mean in rent restricted premises to increase the rent by 20%. That is the only part of the Bill which we are interested in and for that I think that it cannot be said that we are abusing the majority rule in order to get that through because if we don't do that now they will lose 4 or 5 months more. They have already lost, as compared with the Government, from July to

September and if we leave it until after the recess they will not be able to give notice and this will delay it till about November or December. It is in respect of that and that only that we are trying to get the Bill through. I hope that whether the Honourable Leader of the Opposition agrees or not with this, I am trying to explain that we are not trying to go through a controversial Bill. I think that the controversial part of the Bill will be deleted in Committee and we are only concerned in giving a reasonable fair deal to the Landlords of rent-restricted premises as early as possible after the budget.

HON P J ISOLA:

Mr Speaker, one of the main problems here, too, is that there is a Select Committee of the House sitting on the Landlord and Tenant Ordinance and we did at the time of the budget, object. We did make remarks about the increases in rent then because of the sitting of the Landlord and Tenant Select Committee and it would seem to me that any loss that private landlords may incur, if you can call it a loss because they have made representations to the Select Committee and I would have thought that the proper forum for any increases in rent while the Select Committee is sitting would be the Select Committee on recommendation. I know my Honourable Friend on the left is, to put it mildly, upset that none of this has come to the Select Committee. Taking away the first part meets part of the objection, yes, this is true, but I cannot without consulting with my colleagues, give an answer on that either, Mr Speaker, and if the Honourable and Learned Chief Minister proposes to adjourn the House...

HON CHIEF MINISTER:

I do not propose to adjourn the House now, no, I propose to carry on with the Bill.

HON P J ISOLA:

If he does then our objection stands. We will say what we will have to say about it in the debate.

HON CHIEF MINISTER:

I know there is an anxiety to bring these proceedings to an end but I am not going to be driven one way by other means. There is one point that I would like to make. The fact that there is a Select Committee on rents, generally, is in no way affected. This is only a normal thing, that can be absorbed in the final report. In any case, Select Committees tend to take, naturally, a long time, and time cannot stand

still while Select Committees deliberate, there are things that have to be done.

HON P J ISOLA:

Mr Speaker, there are a number of areas in which things are standing still while the Select Committee is sitting. I would consult with my colleagues but our present attitude is, no.

HON J BOSSANO:

I supported the suspension of Standing Orders because, in fact, I welcome an opportunity to discuss it and I am prepared to vote one way or the other in due course. I find it quite extraordinary that the Government should first present a Bill with no notice, ask the House to suspend Standing Orders and immediately announce that they are not proceeding with the first part of the Bill which I am prepared to support and proceeding with rent increases which, for example, I am not prepared to support.

MR SPEAKER:

Well, let us see what happens.

BILLS

FIRST AND SECOND READINGS

THE LANDLORD AND TENANT (MISCELLANEOUS PROVISIONS) (AMENDMENT) ORDINANCE 1982

HON ATTORNEY GENERAL:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Landlord and Tenant (Miscellaneous Provisions) Ordinance (Chapter 83) be read a first time.

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

The Hon J Bossano
The Hon A J Canaga
The Hon Major F J Dellipiani
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 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 I Abecasis

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. Sir, the Bill as drafted contains two proposals. As the Honourable and Learned 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. Sir, I will confine my remarks to the second of the proposals contained in the Bill which is to allow a rent increase of 20% with effect from 1st September, 1982, in private dwelling houses. That is the effect of the Bill. There is, of course, in force at the moment an ordinance which freezes the giving of notices until the 30th November 1982. This Bill, therefore, provides that the measure being proposed in the Bill will not be limited by that freeze. In other words, the freeze will not apply to this particular increase. Because the 1st September 1982 is now approximately six weeks away, the Bill contains provision that if a notice is given after the Bill is passed but before the 1st September, then as long as it is at least one month's notice, that will be sufficient notice for an increase provided always, however, that the increase cannot take effect before the 1st September 1982. Sir, I commend the Bill to the House.

MR SPEAKER:

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

HON A T LODDO:

Mr Speaker, it is not my intention to query the need for this Bill or the sincerity with which it has been brought or the validity of the points that have been raised. But,

Mr Speaker, I am sitting on the Select Committee of this House going into the Landlord and Tenant Ordinance and as far as I am concerned the only interference with the work of the Select Committee which I am prepared to countenance is further extensions to the moratorium until the deliberations of that Committee have been completed and our recommendations submitted to this House. If there is any concern about the fact that the Government is putting up their rents whereas the private landlord has not been able to do so, perhaps, Mr Speaker, it would be better if the Government did not put up its rents until the deliberations are finished. Mr Speaker, in the months that I have been sitting in the Select Committee, I have had no intimation whatsoever of the contents of the Bill. The last meeting of the Select Committee was two weeks ago and still I had no intimation of what was being brought before the House. I feel that if my presence in the Select Committee is merely going to be on a rubber stamp capacity then, Mr Speaker, I feel that I must seriously reconsider my position as a member of that Select Committee. I feel that this Bill is already impinging on the work of the Select Committee, with all due respect. That is all I have to say.

HON A J CANEPA:

I do not know whether a Committee which is appointed by the House, whether it can be said that the House, generally, is interfering with the work of that Committee if the House passes a legislative measure. I am not sure that that argument can be sustained. I think what I want to say in support of this increase of 20% in rent is that last year rents of Government dwellings were increased by 20%, including Government pre-war housing and through an oversight, because the measure is usually introduced concurrently with legislation on the budget, the necessary action to increase rents also by 20% for pre-war private sector housing was not put in hand. On this occasion the same thing happened. We were caught up in working intensively on the budget till almost the last moment, that no action was taken to draft a Bill and introduce it in the House during the Budget Session giving effect to an increase of 20% in the rents of pre-war private sector accommodation. Therefore, unless we were to do this it would mean that whilst the rents of Government dwellings by the end of this month, in fact, with effect from the first week in July, will have gone up by 44%, including pre-war Government housing, the private sector landlords would not have had the benefit of any increase at all. I am a tenant of a private sector landlord and I consider it unfair that my rent should not be increased at all for two years having regard to the loss of value of money. My landlord is currently spending quite a few thousand pounds in giving the property a facelift and in maintenance and I think that the landlord should have a reasonable return for his money. I think he should have a reasonable return and I don't think that it is acceptable that more time should go

by without what I would regard as an interim increase. The way that I view this 20% increase is that it is an interim increase and I don't think that it should be at all prejudicial to what the Select Committee may come up with. The oversight was only realised recently and therefore it was only at our last meeting of Council of Ministers that we in fact took the decision to increase rents by 20%. At that meeting the Honourable Mr Featherstone was not present because he was away from Gibraltar and as Chairman of the Select Committee he would have been in the know and he might then have exercised what perhaps could be regarded as the common courtesy of informing Honourable Members of the Opposition who served on the Select Committee that the Government intended to proceed with this measure. I hope that Honourable Members will accept the explanation. I hope that they will see the need for what is really nothing more than an interim increase.

HON P J ISOLA:

Mr Speaker, may I say that I agree entirely with my Honourable friend, Mr Loddo, in everything he has said. This House has set up a Select Committee to consider the Landlord and Tenant (Miscellaneous Provisions) Ordinance. This House has set up that Committee to look at not just business premises, private dwellings, but also furnished houses and everything else, and this House has declared a moratorium on rents, all rents. Contrary to what this House agreed, the Government at the time of the budget increased rents of Government dwellings and this is the root of the problem now before the House which is that the Government having done it, the landlords come to the Government and say: "Why shouldn't we do it?" Government says: "Yes, it is true, we should do it." But of course, the Government shouldn't have done it in the first place. As a matter of courtesy the matter should have gone to the Select Committee and the Select Committee could have said: "Alright, go on with the increases and also for private landlords." That is what should have happened and that is why I think my Honourable Friend Mr Loddo is justifiably angry at what has happened and I hope he will consider his position and I am concerned about that and I think the House ought to be concerned about that. Secondly, the moratorium didn't just affect, Mr Speaker, private dwellings and, therefore, landlords of business premises who may be getting very little rent could very easily come to the Government and say "Why not raise ours?" Landlords who have furnished lets could also say: "Give us a proportionate increase." I agree that in furnished dwellings there is an area where there are very high rents but there is also an area where people are being quite reasonable. I know a lot of cases of reasonable rents. I think that rather than just come along and ask this House to increase the rents by 20%, Government ought to have taken it to the Select Committee and the Select Committee might have said "Well we are thinking of this, or that, or the

other, leave it for the time being or whatever." I agree with the principle enunciated by my Honourable Friend, Mr Loddo, and we will vote against this Bill.

HON M K FEATHERSTONE:

Mr Speaker, as Chairman of the Select Committee I do not feel upset that this legislation has come. It was a known fact to all Members of the House that at Budget time the Government did say that they would be bringing a Bill to affect the private landlord within the next session, or the next meeting of the House, when Government put up its own housing at the time. I regret that because I was away I didn't have the opportunity to tell the Members of the Select Committee that this was coming but I don't really think that this what I might call modest increase is going to really upset the workings of the Select Committee and I feel that we did give a promise to the private landlords at Budget time and we should keep to our promise.

HON J BOSSANO:

Mr Speaker, I want to speak in favour of the part of the Ordinance that the Attorney General wants to take away because as I have already indicated, I support that and I think that for the Government to bring a Bill to the House to say that they realise the need for it too late or because of pressure or they were not able to give sufficient notice and then, having just presented it, to say that they are then going to amend their own Bill by taking away, well, they shouldn't have put it there in the first place. I have not seen a reaction from anybody so far to justify the decision of the Government not to proceed with this. The Government presumably, intended to pass it otherwise why put it there in the first place. And then they said that if it was going to be very controversial and if there was going to be a lot of opposition, then they wouldn't go ahead with it but as I understand the opposition in principle by the Leader of the Opposition to the lack of notice concerns the machinery of the working of the House not necessarily the contents of the Bill. Secondly, the opposition from Mr Loddo concerns the fact that as a member of the Select Committee he feels that matters which are affecting what is being studied by the Select Committee should be brought to the notice of the Select Committee before a decision is taken and I can see the logic of that. Suppose the Select Committee were to come up with a recommendation which runs contrary to something that is being amended now, then what is the House supposed to do? I can see that there is a logic about a possible conflict of interests between the work of the Select Committee and going ahead and carrying out amendments to the Landlord and Tenant Ordinance but, of course, I did not support the setting up of the Select Committee, and, therefore, I am not concerned

with its survival. It seems to me, Mr Speaker, that everything that I don't support dies, from the Lisbon Agreement to the Strasbourg process to the Select Committee.

HON M K FEATHERSTONE:

May I tell the Honourable Member that the Select Committee is not dead by any means.

HON P J ISOLA:

We haven't heard anything about the Matrimonial Causes Select Committee for a very long time.

HON J BOSSANO:

It is very healthy and very robust and I think it is going to give birth to a new piece of legislation before very long. Mr Speaker, I will be voting against the part of the Bill that the Government wants to retain and I would like before the part that it wants to remove is removed, to express my support for it in the general principles of the Bill and I will oppose their amendment to remove their own Clause when the time comes.

MR SPEAKER:

You will be given a chance in Committee when the motion is put.

MR BOSSANO:

I will be opposing it at the Committee Stage. It seems to me, on the general principles of the Bill, because to the extent that we are talking about general principles, it seems there are two principles here. The principle that I am supporting is this one which in fact seeks to ensure that a tenant has got protection against his landlord even if in fact the property that the landlord is renting to the tenant was in the first instance obtained from the Government and may be paying ground rent to the Government. I would say, and I tend to look at legislation as a layman because I am not a lawyer and I have had no legal training, I would say that most lay people would think that their landlord was not in fact the person that was collecting ground rent because it was crown property but the person who was running that property as a business and renting it to different people. I think the expectation would be that irrespective of who the ground belongs to, the person who is responsible for letting that property should be doing so under the same restrictions as everybody else. I cannot see why there should be a distinction

because there subsists any material interest in the Crown which is what this thing is intending to remove and I will put to the House, in fact, that this is not a controversial piece of legislation, I would put to the House that the spirit of the Ordinance must have always been to do that and that if in fact it has been an omission in the law, it is time the omission was put right. I would go even further, I have difficulty in seeing why the Government itself should not be willing to accept itself restrictions on its own behaviour as a landlord which it requires other landlords to accept. I think the credibility of the Government as a landlord would be enhanced if it said: "I expect to be subjected to the same limitations as other landlords are and I give my tenants the same right as I demand of other landlords for their tenants." To the extent that I disagree with this, I only disagree with the second part which seeks to make an exception where the Crown is the direct landlord. I know that it is a more controversial thing in the sense that that is a departure from what has existed up till now but nevertheless I think it is a matter that is worth considering. I remember, Mr Speaker, from my days in the Public Health Department and I am sure Mr Loddo will remember as well, that landlords used to feel very incensed that the Health Department was able to hound them, about repairs when perhaps next door to that particular property there might be another property where the Government was the owner and the landlord and a tenant was complaining about exactly the same thing and all that could be done in his case was to write memos which got lost in the Commissioner of Lands and Works Department. This was a constant source of complaint and landlords used to say that Government had a dual standard, they demanded a certain level of conduct from private landlords which they were not prepared to apply to themselves. I think the Government should give serious consideration to this and perhaps it is a matter, if the Select Committee survives, that the Select Committee should give consideration to. But, certainly, the principle in the first part of this Clause 5, which is that the relationship between the landlord and tenant is concerned with the person collecting the rent and running the property and not with whoever retains a subsidiary interest in the ground whether that is the crown or anybody else, I would say is how most ordinary people would understand it. And if the law is going to be amended to reflect what ordinary people understand from it rather than what experts find technical loopholes in, then I go along with that sort of move.

HON CHIEF MINISTER:

Mr Speaker, in respect of the increase it cannot be considered as any affront to the Select Committee because in fact we are doing what we should have done last year. It is a very modest increase and we are not dealing with cases of people who may or not have put high rents in respect of furnished premises and so on, we are dealing with very modest rents of

pre-war housing where 20% exclusive of the rates which is not included in it, will be a very small sum and it is only fair that that should be done to cover up the increase in repairs, particularly with a bigger enforcement which is attempted in respect of minimum standards and so on. With regard to the first part, the view of the Government is as is reflected here, 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 outside. 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 was 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 and may or may not accept the Select Committee's view. Select Committees haven't got any aura about them, they are derivations of the House and they can carry on studying the matter and nothing that the House does is in any way an aspersion on the Select Committee so long as it doesn't go contrary to the general trend. I am quite sure that the Select Committee will have to deal with the question of the very low rents in respect of some premises, rents which were restricted as far back as 1936, and which whatever increases there may have been they have been increases of such small sums that the increases have not gone anywhere near the devaluation of money from the time those rents were increased and the increase in the cost of labour and materials to carry out repairs. There are three reasons why we should not proceed with the first part. One is because it is a matter on which the Select Committee should have a view, two, because it is pending and, three, because it is controversial and the Bill has been given short notice, I do not want to pursue that and I do not want to say we are going to have it because we have a majority. This is not the way we look at this matter, and I would like to assure the Honourable Mr Loddo that this is not the way the Government looks at these matters even though sometimes we may disagree. I accept, and 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 charge to what is considered to be a fair deal to the landlord of pre-war dwellings which the Government itself has done. It is all very well to say there should have been no increase in rents in the budget but then the amount of money or subsidy from the Consolidated Fund into the housing Account would have been much bigger and then of course the whole thing has the effect that we have been talking about in the economy. It is all very well to say forget about it until we are finished. We cannot do that and Government just cannot be run that way. I assure Members that the idea is only to make up if only because we might have said: "We forgot last time, we put it up 20% plus 20% this year is 44%, so we are going to have 44%. That might

have been much more controversial. We are only making up one year later what we should have done last year, that is all.

MR SPEAKER:

If there are no other contributors, I will call on the mover to reply to the second reading.

HON ATTORNEY GENERAL:

Sir, I think there is very little that I can add. The Government has already made its position quite clear on the relationship of these measures to the work of the Select Committee and of the reasons why it is not considered appropriate at this time to proceed with the first clause. May I say that the Honourable Mr Bossano's understanding is the same as mine on the original intention, on the original spirit of the Ordinance, but this point has come up and I can actually see no real harm, anyway, in awaiting the outcome of this appeal and deciding at that point of time what to do, if necessary. But that is something we can look at as it arises. There is nothing more I wish to add myself and I commend the Bill to the House.

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

The Hon J Bossano
The Hon A J Canepa
The Hon Major F J Dellipiani
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 Hon Members voted against:

The Hon A J Haynes
The Hon P J Isola
The Hon A T Loddó
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 I Abecasis

The Bill was read a second time.

The House recessed at 5.25 pm

The House resumed at 5.40 pm

The Hon Attorney General proposed that the Committee Stage and Third Reading of the Bill be taken at a later stage in the meeting and if necessary on that same day.

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

The Hon J Bossano
The Hon A J Canepa
The Hon Major F J Dellipiani
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 Members voted against:

The Hon A J Haynes
The Hon P J Isola
The Hon A T Loddó
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 I Abecasis

The Hon the Attorney General said that the Committee Stage and Third Reading of this Bill would be taken at a subsequent meeting.

THIRD READING

HON ATTORNEY GENERAL:

Sir, I have the honour to report that the Gibraltar Museum and Antiquities Bill 1982; the Markets, Street Traders and Pedlars (Amendment) Bill, 1982; the Administration of Justice Bill, 1982; the Banking Bill 1982; the Port (Amendment) Bill, 1982; the Trade Licencing (Amendment) Bill 1982; the Traffic (Amendment) Bill 1982; the Interpretation and General Clauses (Amendment) Bill 1982; the Petroleum (Southern Rhodesia) (Repeal) Bill 1982; and the Supplementary Appropriation (1982/83) Bill 1982, have been considered in committee and agreed to, in the case of the Gibraltar Museum and Antiquities Bill 1982,

the Administration of Justice Bill 1982, the Banking Bill 1982 with amendments, and in the other cases without amendment and I now move that they may now be read a third time and passed.

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

HON CHIEF MINISTER:

I now move that the House do adjourn sine die.

MR SPEAKER:

I now propose the question which is that this House do now adjourn sine die and in so doing I would remind the House that I have received two notices of matters to be raised on the adjournment. The first notice was given by the Honourable and Gallant Major Feliza and I now call on him to address us on tourism development in a closed frontier situation. The debate is restricted to 40 minutes and it is now exactly 5.43 pm.

HON MAJOR R J FELIZA:

Mr Speaker, I know that in this hot weather it might cause considerable inconvenience to the House that I should try and extend the duration of what is a long and hot meeting but I feel, Mr Speaker, that tourism is too important a matter and is going at this very stage through what one might call a crisis, not to raise the matter and express the view from the Opposition as to the situation of tourism today and also hoping to urge the Government to do something with urgency to overcome the difficulties that are facing the tourist trade in Gibraltar and, consequently, affecting very seriously the economy of Gibraltar. Not to have done so now would have meant having to wait till the next meeting of the House which would be round about October, and in any case I do hope that by raising the matter now something, even if very little, might be able to be done during the few weeks ahead of the summer season which I think are perhaps the most important ones in this particular industry. Mr Speaker, I think that I would like to go briefly, because the time available is not all that much, as briefly as possible, in order to allow the Minister to be able to reply. I would like to go through the Tourist Survey Report which I think is obviously something that one has to look at seriously. Then I think we ought to look at the number of tour operators that there are and what are the chances of more coming or even those who are there disappearing. Also, to find out what is the policy of the Government with regard to hotels some of which are very seriously affected and also very worried about what the future

holds for them. Lastly, I think, matters of extreme urgency to do with the adverse effect that the non-opening of the frontier has had on a number of traders in Gibraltar who are overstocked and I think some coordinated effort should be made to produce money out of stocks because that in the end is going to be not only in the interest of the traders themselves but literally for Gibraltar as a whole. If we start with the Tourist Survey I think one sees that in 1981 and perhaps the Minister if he has figures could say what the trend is since then, because obviously I haven't got that but he might be able to say later. The income derived was \$10.9m, and it goes on to say that this represents in actual real terms a decrease of 5% which I think is serious because it is not expanding it is contracting and that is a serious situation to be in particularly at a time when we are going to depend so much on it. Then if we look at the sectors which draw in this money, we find that hotels are by far the most important factor in that they bring in about \$6m, followed by visitors in supplementary accommodation which is perhaps something we must not forget, and, thirdly, visitors from yachts which again, unfortunately, as I understood from the last report, is slightly lower than it was the previous year in numbers, I am not saying in money. I don't know whether that has anything to do with what my Friend the Leader of the Opposition raised the other day. If there has been an increase I would certainly like to hear about it and I will say why in a moment as I go along. Excursionists from Morocco, I think, is an important factor and although the amount coming in is only \$699,000, it shows that each of those visitors spend in Gibraltar \$57 per head so that I think is a good fish to catch because it is obviously money coming into Gibraltar which I don't think, perhaps, we are exploiting enough and it is one, in my view, on which we can act with some urgency and perhaps be able to bring them in because it is not a question of planning a lot ahead or having to do a lot through travel operators, it is something that we might be able to attract quickly if we carry out a proper campaign on the other side of the Straits. I believe that perhaps this could be done, and I said so the other day, by involving very directly those very people who find themselves overstocked. I think that publicity such as a kind of special month sale in Gibraltar which shows special discounts for certain items that perhaps we are already overstocked, that might be quite an attraction to people to come over. I think it was suggested that perhaps it could be suggested to the ferry operators that reductions in their fares, not must for groups but for individuals, might help. I don't know to what extent they would cooperate with that. I don't know if the Government would be prepared to give them a small subsidy per passenger. I am not suggesting they should do it but I think it is worth looking into. It might be done by way of a voucher that can be handed over to the passenger who comes over or the fact that the passenger who comes as a visitor if he shows the ticket might be able to get a discount once or perhaps

twice. If it is stamped every time he gets a discount perhaps you can say to what extent you can get a discount from the shop or perhaps the shops might agree that those passengers who come along showing a ticket will get a discount. I think that kind of advertising in Morocco will be an incentive for people to come over and I suggest that the Minister should give considerable thought to this. There is, as we know, the Tourist Advisory Board and I don't know to what extent that is being used effectively. I don't know what meetings have been held, if there have been any at all or what was discussed. Was there in fact a contingency plan in case the frontier would not open and in any case what is the policy to make sure that tourism would go in in strength regardless of whether the frontier opens or not. I have always said I welcome the frontier opening in that respect as a bonus but certainly not to be depended on, as I said at the last meeting, because then we would be dependent on Spain. Even if the frontier opened we should not see tourism in Gibraltar in that light. I have been speaking to a number of people in the trade and they all say the same thing. They too, are worried even if the frontier opens that suddenly it might close because as we can see the Spanish Government is a military inhibited Government and they haven't got a free say in what they do, that is obvious. And so, although they promise to open the frontier, at the end of the day they couldn't deliver not in my view because they didn't want to but because they were afraid of the internal consequences of opening the frontier. That is the predicament of the Spanish Government and it is likely to stay that way for a few months if not years. As regards the yachts, which I said I didn't know that the figures had gone down, that is the impression I had, but even if it hadn't because of this business of the discrimination that is being exercised against some of those in France, we are likely to see less of them remaining in Gib and perhaps some which would have come are not coming. I also notice, and I think the Minister should look into this, I have also noticed that there is an arm being extended at the Neutral Ground by the Spanish authorities and it would be interesting to find out what that is for. Is it that they are going to build a Marina there and if they are are they going to start unfair competition, perhaps Government subsidised competition, just simply in order to seriously and adversely affect our own Marina. That is not impossible, as I am sure the Minister will realise. It is to that sort of thing that he should give a little bit more attention. As to the tour operators I think if we look at the number of tour operators that we had before and see how many of them have disappeared. Cooks is gone, Thompson is gone, OSL Apartments is gone, Wings is gone, Eldermans is gone. We are left with Sovereign, Cadogan, Exchange Travel Marshall Sutton and Gibraltar Travel. I understand that the last two that I have mentioned are not all that important but Exchange Travel is very important. I don't know whether the Minister has read in the travel press, the Trade Travel Gazette of June 25th, because I don't really want to give

publicity to this but if the Minister knows I will only refer to it and I think that if he knows what was there and if things did go wrong with this particular enterprise, this particular agent, this would be very serious to Gibraltar. I just don't know what sort of action we are taking in case the worse were to happen because if it does happen then it will have very serious repercussions. I believe that at least two of them are not doing so well. From what I can gather I understand that on the whole it has been better recently and perhaps it is even better today for some of them, but for at least two of them I understand they are not at all happy with the situation and in one instance I understand that the situation could become extremely difficult. Again I don't think it is fair to mention names but perhaps the Minister knows and if he doesn't I will certainly tell him privately afterwards. These are two important hotels and we should do our best by every possible means to give them aid. I notice that on the whole hotels are scared of developing themselves because they are afraid of what might happen if some new hotels were to start in Gibraltar because they find that they haven't got enough tourists for themselves and if there are more hotel beds available it is going to cause greater difficulties to them. Therefore, I think in this respect they do need some reassurance from the Government as to what the future development plans are. They must know and this is why I said development programme, they must know whether the policy is going to be more hotels at any cost or whether the policy is going to be as in fact we do with the control of labour, where you look at how the thing is expanding and if it looks that there is going to be a requirement for more hotel beds then of course you go along and you encourage building but if you see that this is going to be counter productive because literally it is going to throw some of the hotels out of business, then I think perhaps it is not in the general interest of Gibraltar, no matter how good it might look from the actual construction development it might not be in the interest of the tourist industry as a whole given that it is the hotels which are the greatest earners of money in Gib. In that respect I think the Government should come with a development policy. If that is so, it might encourage some of the existing hotels to put more money into the venture because they know that they are investing money which could be productive, but if they think that this is going to lead to wasteful competition then I doubt whether they would be in the mood to put more money into the hotels and there will be a sort of retreat rather than take the offensive. I think they should take the offensive coordinating with the Government and all the other trading sections of Gibraltar and all the other sectors to do with tourism. Lastly, Mr Speaker, I would like to deal with what I think is something that requires immediate action. I know that we had a beautiful plan for the pedestrianisation of Main Street and other arcades and what have you; excellent, long term. But we cannot wait, Mr Speaker, summer is here with us. I hope we are going to make a real effort to bring people from Morocco, I hope we will do that, but when they

come here we have got to make the place look attractive. I think, apart from the bigger developments that I certainly support and I hope will see the light of day, apart from that, there should be within our own resources, within the resources of the traders themselves, urging them to do something to make the place attractive. I have walked past the front of one hotel and I was shocked to see the state that that was in and, of course, the hotel is responsible but someone somehow should have the initiative to speak to the Manager, and say: "Look, it is your own business boy." It is his own business but it is also ours so we have got to do something in that respect. Again I won't mention names but I will certainly tell the Minister and perhaps he has noticed this. The area around the hotel is filthy and if that area is filthy how can you expect tourists to enjoy their stay there. Having said all the bad things let us look at the good things. It is very good in the report that 40% of the visitors have said they will come back to Gibraltar, that is good. We have a product, I think, that given the right things will sell. Is the Government taking note of who they are and is the Government sending them a note every year saying: "You came to Gibraltar on such a day, we were extremely pleased to see you, here is what we have for the following year. Come and see us again." That, in my view would be very useful. If they are not doing it they should give thought to doing that because that is a very high proportion and it is extremely good and I think it is encouraging. I think I have been constructive in my approach and I do hope that something is done along the lines I have suggested and that it requires immediate action for those items that I have just mentioned and then it requires a longterm policy which will give security and encouragement to those who are already here and prepare the ground for later on for more expansion because I can assure the Minister the best way of ensuring expansion in the tourist trade is that those who are now engaged in it are prosperous. If they are prosperous there is no problem, more investors will come like flies to Gibraltar, but if they are sinking as they are now no amount of propaganda and leaflets and what have you is going to make them put any money in Gibraltar.

HON H J ZAMMITT:

Mr Speaker, may I commence by saying that I welcome a chance to be able to answer the questions posed by the Hon and Gallant Major Peliza concerning tourism and the allied trades concerned with tourism. I welcome it because it is a matter to which I have devoted an enormous amount of my time. I take this as a very serious issue in the same vein as I know the Hon and Gallant Major Peliza takes tourism because of the economic value it has to a Gibraltar that needs economic reassessment particularly during the times that we are going through. Mr Speaker, the Government of course looked

at tourism in accordance with the last budget in relation to the possibility of an open frontier situation which we all know never came to pass. It was immediately upon the information that the frontier was not to open that I realised that the whole tourist situation required a serious reappraisal and serious consideration had to be given to not only maintain the kind of tourist trade that we were obtaining at that particular time but, if possible, to improve it substantially. I have had tremendous encouragement particularly from my colleague the Minister for Economic Development and Trade in this field because I think he also agrees totally with the importance of tourism vis-a-vis the economic value. I would also like to say in fairness to the Hon Financial and Development Secretary that upon his return recently he called me and asked as to how we could improve the situation so it will be seen that without my prodding the Financial and Development Secretary it was the other way round so one can see that there is sympathy towards the tourist trade and the tourist industry. Mr Speaker, we have held an enormous amount of meetings with the Tourist Advisory Board and more recently my colleague, Mr Canapa, has held several meetings one of which I attended at the Tourist Office with the Chamber of Commerce, Hotel Associations and the Licensed Victuallers Association and I think it was a very constructive meeting, people were very logical and there was intelligent dialogue and everyone is aiming at the goal that we are trying to achieve and I think that we will be moving. During this week whilst I have been in the House, we have had our own advertising agents out here and they have suggested various methods and improvements on our advertising and our public relations and what we can do and I am of the firm opinion that if there is a concerted effort by all of us, and I repeat all of us, then I do not think that we will be as badly off as people thought we were going to be. But I would warn Members of certain issues that are evident and that there is little that I can do about these things or for that matter this House. The strength of the pound works very much against us vis-a-vis our competitors, we know that. The bargains that one can see at the back pages of English national papers offering bargains at prices that I am afraid we could never compete with even if we gave away our hotels free and we were to subsidise air passages by 50%, we still could not compete, they are cheaper than us so we are up against an enormous competition which we are trying to hold. I am delighted that the Hon and Gallant Major Peliza referred to the 40% of repeat traffic. We do follow that up. We follow that up very carefully because it is particularly that traffic that comes to Gibraltar not just one or two or three years but we have people coming here for many, many years, in fact some people come here twice a year. Where we do find that we lack badly and I would like to inform this House that I intend to take this up during this month - I may have to go abroad - is our air communications. This is where I think the Hon and Gallant Major Peliza will agree with me wholeheartedly. It is no good saying our product is good or our product is bad, we are too expensive or we are not, the real facts are that

every single time I question people I am told: "We would love to go to Gibraltar but we cannot get a seat." You look at the Tourist Survey Report and we find our planes are arriving with 80% load factor, 90% load factor yet our hotel occupancy is down to 30%. Is it that people find it difficult to come to Gibraltar be it because the times our planes depart from UK entail a person coming down from the North of England or from wherever other than London and having to spend an overnight stay at Gatwick adding a further £30 or £40 to an already expensive trip? Is it that if we were able to bring our planes out at, say midday we would get more traffic? I do not know. I can assure Members that I personally picked a phone up and I asked for a seat on the same plane that I was coming back in and I was told the plane was full that there are no seats. That I think is the most important thing and it is like a chicken and egg situation. If our hotels were full then obviously they would improve their product because they are making money. If we could extend our hotels no doubt the airlines would say: "We will put more planes because you have more beds" and the hotels would say: "If you had more planes we could fill our beds." The whole situation needs a very careful reappraisal. I intend to take up very seriously this month which is quite uncommon, may I say, for either trade promotions or any direct touristic sales to be attempted during the month of July because of course it is not the month that one can sell Gibraltar, everybody is either away by that time but I would like to start now, in summer, to ensure that our shoulder months, particularly our shoulder months, can be reinforced. We are hopeful that there is a possibility of an aircraft, a charter flight, coming out from Manchester which is an area which I think is vital in that people would not have to come down from the Midlands and stay overnight in London, there is that possibility. I am going to approach airlines to try and encourage a charter from Scotland, be it Aberdeen, Glasgow or Edinburgh. We already have a charter coming in from Denmark and the possibility of a charter from Frankfurt. We have to diversify as much as we can and I will take this opportunity again of saying that whilst agreeing totally that the day excursionists is a very important factor to the trade and in no way trying to reduce or devalue the importance of the excursionists which we will continue to encourage and if need be strengthen our advertising in Morocco for that trade, we will of course be attaching particular importance to the tourists that come and stay in Gibraltar and stay in our hotels. We are not content about this and I assure the House, Mr Speaker, that when we got to know that the frontier was not going to open we put pen to paper and there are papers floating around at the moment with a new approach to the industry to ensure that we can survive. Mr Speaker, with regard to the Government's policy on new hotels, I take it that the Hon and Gallant Major Peliza must be referring to the tenders that recently went out regarding Alexandra and Napier Batteries. We explained this to the Hotel Association last Monday when we held a meeting but of course that was done in relation to the possible opening of the frontier.

HON MAJOR R J PELIZA:

If the Hon Member will give way. Perhaps that might have been in mind but the general feeling I had is that they were fearful of suddenly someone coming here offering a big hotel somewhere and being granted permission. What they would like to see is a definite policy as to how you are going to proceed with the number of hotel beds available and how that is going to develop as a plan for development and then they know whether they themselves can put more money into the hotels or whether it is not worth doing because the money they are going to put in is going to dissipate because somebody else comes along and there is a wasteful competition.

HON H J ZAMMITT:

Certainly, Mr Speaker, at this stage with a closed frontier situation one cannot visualise somebody coming here and building a hotel not forgetting that we have 882 seats on aircraft but even if our planes were to come totally booked with tourists as such and not relatives staying with their families, we still could not fill up our hotel beds so I cannot visualise anybody coming here and spending £15m in building a hotel with our present set-up with a closed frontier. With an open frontier situation I think it would be a very profitable business and no doubt if ever it does open I am sure that we would have a lot of people interested in opening hotels or tourist attractions in Gibraltar. Mr Speaker, the Tourist Office is more than anxious and we are more than willing to listen to constructive criticisms and suggestions as to how to improve and I would like to say this quite sincerely. I know that I have had my tiffs with people and Committees but we understand each other and I think that certainly for the last nine or ten months we have had an extremely good working relationship and things are going much, much better, there is no doubt about it. Things are working much, much better and I am sure that together we can do an enormous amount. It is the goodwill that must be seen by everybody. I think the Hon Member will agree that people just cannot sit back and expect Government to do everything for them and one sees that there has been determination in the Hotel Association, the Chamber of Commerce, the Licensed Victuallers, there is determination, there is willingness to help and all we have to do is either show leadership because of our official position or possibly assistance, and I am sure we can do it. Let me just give the Hon Member an example. I say this because I know he is directly very concerned, he wrote to me about this issue, and that is the advertising of something about Gibraltar in the Licensed Victuallers of England which have, I am told, something like 32,000 pubs. At our expense we are going to put in what is known as a slot page which you can extract from this magazine and which we hope will be published in all the pubs

and then I have suggested that in doing that we could have an organised Open Darts Championship taking place in Gibraltar. I think we could always get a sponsor for this particular tournament where we could offer £1,000 or whatever to the winner. We could find that the actual pubs themselves in UK might like to sponsor an individual or two and following from that suggestion we find that it can be extended and say: "Right, it is like a pentathlon, you can have a darts man and a pool man." We have thought of - and this I picked up from watching the other TV channel - that some countries are talking about the world windsurfing championship. Well, I think we are in the excellent situation of being able to do that and have the Straits of Gibraltar race by windsurfers. That is the kind of specialised holidays we can look forward to and we have to do this kind of thing but, unfortunately, Mr Speaker, we know that these things require a tremendous amount of advertising, a tremendous amount of money and cost effectiveness but we do know that whatever pound we put in in tourism, we make 66% is the £10m. Mr Speaker, we do put pounds into it. In fact, if we look at what Gibraltar spends for the 100,000 tourists we get - I do not want to go into statistics because we can make them prove whatever we want them to prove - but we do reasonably well for the number of tourists we get. But that does not inhibit me from saying that we should and we must make sure that our tourist industry is not brought to its knees which would be to the delight of many, certainly our competitors around us, and at this particular time we have to ensure that we have the moral fibre and the determination to ensure that with our own resources - we cannot get development aid, I am told, for advertising - we have to make sure that we keep Gibraltar in the forefront particularly in the UK and in Morocco so as to enable people to spend more money in Gibraltar. Mr Speaker, having said that we cannot get money from ODA direct for advertising and promoting our own things, there is nothing to stop us from putting in such things as Military Museums and we can possibly put through other little bits and pieces. There are many things we can do and we are working out now what can be put down for a submission for tourist development. I would like to say that it has only been since the non-event of the opening of the frontier that my colleague Mr Canepa to whom I am very grateful, has come in on the question of tourism under his Trade and Development hat and I am very grateful for his tremendous support and enthusiasm because we cannot allow our tourist trade to go down the drain. Mr Speaker, I have much more to say but I am afraid in the short time that I am allowed all I can say is that I certainly commit myself to do my utmost to ensure that the tourist trade is maintained and I will do my best to increase it as much as I possibly can.

MR SPEAKER:

I will now call on the Hon and Learned Leader of the Opposition who gave notice that he wished to raise the question

of the independence of GBC and its contract with Airtime International Limited.

HON P J ISOLA:

Mr Speaker, I gave notice that I would raise the question of the independence of GBC and the matter of the contract with Airtime International Limited on the Adjournment. My principal reason for raising the matter on the Adjournment Mr Speaker, is really to comment on the apparent lack of interest and knowledge shown by the Chief Minister on the real issues involved in these matters. I don't know whether he was perhaps saying less than he knew but I was surprised by the very little he knew or the very little he was prepared to say on a matter which I think is of considerable importance. I have talked, Mr Speaker, of the independence of GBC and of its contract with Airtime International Limited. GBC is a Corporation, the creature of statute, which has been given a monopoly situation, an exclusive situation in broadcasting and we do not object to that situation. The problem that seems to have occurred, Mr Speaker, and the problem that worries us is, that it seems itself to be fostering children in monopolistic situations as well. It seems to be giving exclusivity contracts here and exclusivity contracts there and that does worry us a bit. We favour, and let there be no doubt about it, we favour the independence of the Gibraltar Broadcasting Corporation. We believe that its finances should move to a position of real independence and we know that GBC cannot have real independence so long as it is dependent on its finances very largely on the generosity of the Government in the first instance with whom they negotiate the amount of the subsidy that they should get and on whose generosity they must inevitably depend and then, subsequently, to this House who have to make provision for the money. So that so long as the Broadcasting Corporation is dependent on large public subsidies it is no use saying that it is truly independent economically. Therefore, you might argue and you might say: "Well, if they take action which is going to improve their revenues, why complain? Isn't that going in the right direction?" And my answer to that would be, yes, subject, of course to us knowing a bit about it, subject to us knowing that it is going to make them more independent and a short cursory look at the facts of the agreement as we know them will show that this is not the case. But I won't come to that yet. Mr Speaker, if the Corporation is independent and is to be independent and we completely favour that view and we reject entirely the attitude of the Chief Minister whenever we bring up the question of GBC, him replying: "Oh, yes, you are trying to control them, we want them to be independent." Well, that is what the Government does all the time. We have to put our questions here because this is the only place in which we can question the funds given to GBC. The Government has many other occasions to do it, when it is discussing with them their estimates for the year, when it is discussing the amount of what they will give them and all these things.

The Government has a much greater grip on GBC than we have, perhaps they want to keep that grip, I don't know, but they do, and it irks us to be accused of trying to affect the independence of GBC because we raise matters concerning them in this House. We have a duty to raise them because, Mr Speaker, over 2800,000 of public monies have been voted to this corporation this year and anything that affects that vote is a matter for proper discussion in this House. We have not raised in this House whether GBC gives enough time to the Opposition or gives enough time to the Government or projects the news, we have not. If we have complaints about that, we have normally gone direct to the Corporation and told them and we understand the Government does the same thing. When we talk of independence we are talking in this sense of political independence. We expect GBC to be unbiased in its presentation of news and we must say that, by and large, I know it is very difficult to please everybody, but by and large, they perform this function adequately. We would like to see proceedings of the House reported more, more proceedings live and all that but that is another matter, that is a matter for discussion. When we talk of independence, we respect the independence of GBC and I hope GBC will respect us for having the courage, if we may say that, of being critical, if necessary in public, knowing that that could have consequences for us but we respect their integrity in their attitude towards independence and we hope that any criticism that we make on these matters are taken in no way as trying to influence them in how they present news or anything like that. But it is an important point, Mr Speaker, because for GBC to be independent it must appear to be independent and I was surprised at the very little information I got, for example, to my questions in relation to the exclusivity arrangements that they had entered into with Panorama because again the Hon and Learned Chief Minister showed little knowledge of it. He said: "Well, the Chronicle had it before." The short answer to that is the Chronicle had it before on a monthly basis and not anything like the same conditions. The conditions on which the Panorama have it today, as I understand it, and that is why I asked the question and I asked the Chief Minister to investigate it and he refused, is that they have now a weekly TV guide, all the information that brings life to the Guide about what the programme is going to do, what it is going to say and so forth, is given exclusively to Panorama. Other people can get the TV Guide but they cannot make any use of it, Mr Speaker, because it is directed towards the week that begins on a Monday, Monday to Saturday. Vox does not get it because Vox gets it on the Saturday and they have only got two days snippets to publish because Panorama gets it first on Monday and that puts out the Vox, Calpe News, The People and nearly every other newspaper. They are prejudiced, there is an exclusivity arrangement. It is done free, but it is done free for a reason. If people want today to know what the TV Guide says through their newspapers it is the Panorama they must buy. That looks bad, Mr Speaker. It looks bad when a Corporation appears to favour one particular newspaper. That

is the complaint on that one. If they made available all the snippets of information to all the other newspapers then the other newspapers could write their own little articles on GBC, and that is good for GBC because it gets more listeners, it gets more people looking at it. I know that the Guide is free and it is handed free to a lot of people. An ordinary man in the street can only get it through a newspaper or go to a Hotel or the points of tourists, as I understand it. That is why I enquired about it, I thought it warranted some investigation. It gives a bad impression, an exclusivity arrangement with Panorama which is a newspaper that has been quite critical of GBC and we don't know whether it will be in the future. These things don't look good. We believe in the independence of GBC and we believe that they should act in a way that shows them to be independent. Mr Speaker, the other matter of the independence of GBC, advertising by the Government free of charge. Why? Why shouldn't GBC charge the Government for their adverts and that would be offset against the subsidy? There would be less money if the Government pays but it should be charged because then advertising would be done on a proper footing. Take the Keep Gibraltar Tidy Campaign, the Hon and Learned Chief Minister said in the course of his statement that that could in no way be construed as meaning that the Government is taking sides in this dispute. I asked a question about Keep Gibraltar Tidy because I was watching the programmes and I suddenly saw Keep Gibraltar Tidy almost every time of the day and night on GBC. So I asked the Government: "How much is this costing, is there an increased advertising campaign?" I was told: "No, it is done free of charge, we were really filling up the gap." If they were really filling up the gap are they being neutral? Are they taking sides? Does the Government appear to be taking sides? Therefore these are matters that affect the independence of GBC, the apparent need for GBC not only to be independent but to appear independent. We must not just pay lip service to that, saying it must be independent, we must see that it is and appears to be. Therefore they should charge the Government, even though the Government is their benefactor. They should charge them and then that would be offset in the estimates. Those are the two points I wish to make on the independence of GBC because the Government are too anxious to try and show that the Opposition is the one who is trying to make GBC dependent and they are the good boys, they don't interfere with them at all. I am afraid that is not a position that we can accept. We want to make it absolutely clear to the Corporation and to the Chairman of the Corporation that we will fight for their independence in this House more than the Government does. We will do that ourselves but we wish them to put their own bit in this struggle for real independence and their own bit relates, Mr Speaker, to making themselves self-sufficient as much as possible. I now come to the Airtime International Agreement which the Hon and Learned Chief Minister has put forward as a step in obtaining that independence and self sufficiency. I was surprised by the ignorance, if I may say so, I will use

that word, of the Hon and Learned Chief Minister when he was answering my question. The first paragraph of his statement to the House show this. He read what the Chairman of the Board had written to him on 17th February 1982, and he said: "We have had after a lot of bargaining, their conclusion agreement with Scottish television which will guarantee at least \$140,000 per annum (we hope the figure will be higher) for 40% of our commercial air time. The remaining 60% of our commercial air time will need to be sold. In the past the most GBC has managed to dispose of has been 48%. In replying I said I was very pleased to note the terms on which the proposed agreement with Scottish television had been re-negotiated. Well, he either didn't know the real terms because he was not able to tell us or he only knew some of the terms when he wrote that letter, perhaps he will say so in replying, but the point that is missed here is that we, on the face of it, we would think the agreement was wonderful if GBC had said: "We have 100%, 10 minutes an hour advertising time, we are only selling 48%, we now sell time to Airtime and they will guarantee us 40% sale of the time. Now I have got to look for my customers for the remaining 60%." If that had been the deal, on the face of it, it would have been an excellent deal and we would not have quarrelled with it. Where we quarrel, and we do not quarrel because we don't know the facts that is why we ask for the agreement to be disclosed to the House, where we quarrel Mr Speaker, is that there was a little condition attached to that and the condition apparently was that they took all the business that GBC had built up during the years or most of the business that GBC had built up, to their own exclusivity so the Corporation was giving them, apparently, 40% of the time and the advertising which went with it. This is where, in financial terms, we have to question it because what has happened is that they are in a position then to tell local traders, which apparently is what they have done: "Look, all these products will now be handled by Airtime International, you make your deal with them." They go to Airtime International and they are told it is double the price now, or whatever price it is they are charging. Take it or leave it. This is what has been done, apparently, we don't know. This is, as I understand it, one of the reasons why traders are up in arms because they say: "Why shouldn't we, who have handled our own advertising over many years direct with GBC have to go to London to negotiate our terms? Why should GBC have disclosed to Airtime International confidential matters of the Agreement, confidential information about ourselves, our level of advertising, our volume of advertising, to Airtime International?" That is not commercial practice. Here I would like to pause one moment, Mr Speaker, and say this; the impression given to GBC was that there was a condition in the Agreement of Airtime International Limited and no information in that Agreement could be disclosed to any third party. That is not the impression I get from the Chief Minister's statement. The impression I get is, and the advice he has received from the Hon and Learned Attorney General is, that in accordance with normal commercial practice the agreement between GBC and

Airtime International Limited is confidential to the two parties. The Government's legal adviser's view is that the Government might properly ask to see the Agreement if there were substantial reasons for doing so but that, unless and until he may decide to do so, the agreement should be treated as confidential to the two parties. So what the Hon and Learned Attorney General was referring to was commercial practice, proper commercial practice, and if it is proper commercial practice when two parties make an agreement not to disclose it to a third party, I would make the question, Mr Speaker, why GBC in view of what is proper commercial practice thought it proper for them to disclose to Airtime International their commercial relations with traders in Gibraltar. It seems to me what is sauce for the goose is sauce for the gander, Mr Speaker. These are the sort of questions we want information about because we feel there is a dispute, we have read and I am sure - and nothing surprises me - I am sure the Chief Minister got a copy of the Press Conference of the 21st May by the Chamber of Commerce in which they laid out in quite considerable detail their complaints. I would have thought that a lot of them went through the financial provisions in the Agreement as they could affect the revenues of Gibraltar. I would have thought that it was not only proper, in fact, I would have thought it was the duty of the Chief Minister and of the Financial and Development Secretary, whoever it is that deals with GBC, to have asked for information with regard to the Agreement because, Mr Speaker, can the Chief Minister confirm or deny that at the very present time the Staff Association of GBC, the Hon Mr Bossano, he could have confirmed it if he had been here, is negotiating for thirty two positions more in GBC. In fact, little birdies have told me that the extra money going to be made from Airtime International Limited has already been earmarked by the Union negotiating body for the extra staff. What is wrong, Mr Speaker, with this side of the House getting to know the facts? If it cannot be made public in the House, because GBC thinks it is not good commercial practice, then it should be made available to Members of this House so that we can make a judgement on the matter. We vote a subsidy of \$850,000 to GBC and nothing in the Agreement says that we are going to see a reduced need for this subsidy because of this agreement because the Agreement contains the passing over of the clientele which GBC has built up in Gibraltar over the years to Airtime International. So they are told: "We will pay you \$140,000 but there is the income to pay us with, you put the prices up." I don't know, we don't know the facts and I think we are entitled to know the facts, Mr Speaker. That is why I believe that it is right for me to have raised it on the Adjournment in the hope that I can obtain assurances from the Chief Minister that he will seek to obtain from the Gibraltar Broadcasting Corporation the information that I sought in those questions. We cannot wait till the accounts are brought, Mr Speaker, because the financial situation could have been affected. I suspect that the fact that the frontier has not opened may have put the factors in respect of which the Agreement was negotiated into question. What I am afraid of, Mr Speaker, is what I hear is true, but I

don't and I won't say it here, that if that frontier had opened we might well have found local Gibraltar traders trying to advertise their products squeezed out because of price or other factors I don't know and there is a genuine need to protect the interests of trade. And not just the interest of trade, Mr Speaker, the interest of the consumer because I think that was made also clear in the Chamber of Commerce Press Conference communiqué. I have only got their side, I admit, but we were trying to get the other side of the coin, that if there are very increased costs in advertising and so forth and traders find they have to advertise, because if they don't people go and buy somewhere else. At the moment there is little danger of that, there is little danger I can assure the Hon Minister for Tourism of all the seats in Gibraltar Airways now not being sold and people preferring to go to Pan Am and Hong Kong Airways and Singapore Airlines, they look very attractive, Mr Speaker. I think if tourists from England come to Gibraltar and watch our television they will be thinking of their next holiday to Singapore and other places and not Gibraltar and my Hon and Gallant Friend's satisfaction of the 40% repeat figure may disappear and dwindle. But, it is odd, isn't it? I wish GBC to know this very clearly, I don't want our position to be misrepresented. If we have to hit GBC we will do so. When we have to, we do it, we are not afraid of it, but we don't want them to think we are against GBC, we are not against GBC. We have seen in the press, we have had representations that give us the impression that there are some things that need to be looked into. There is a what we would call in law a prima facie case for some investigation and we have come to this House asking for that information and we have received none of it. We think that is a matter for concern for the House and I would have thought that GBC could give us that information. We have asked it in the proper way through the Chief Minister who answers for GBC in this House and not direct to the Board. If the Government feel that any queries we have on GBC should in future go direct to the Board we will go direct to the Board and ask them for the information and if they don't give it to us then we will bring it to the House and criticise them for it but they were perfectly innocuous questions asking for information. We have had complaints, a significant part of our population feels aggrieved and that is a matter, in my view, that the Government should take an interest in. In the same way as the Government takes an interest if there is a strike of Stevedores in the Port who want more money, the Minister for Labour is soon around there with the Union trying to get them together and bring peace with them. It is strange that in this particular case, where public funds are concerned or could be affected as a result of drop in advertising revenue of GBC, that the Chief Minister prefers to stand apart, prefers to make no inquiry, investigation as to whether a significant part of our population has just cause to be aggrieved. That is the cause for concern for us, Mr Speaker, and I would like to hear from the Chief Minister, I would like to have assurances from the Chief Minister that he will take the matter further than he appears to have been

ready to take it in answer to my questions earlier on in this meeting.

HON G T RESTANO:

Mr Speaker, I would like to question the deal that has been made by GBC with Airtime. I wonder whether it is in fact such a good deal. The information we have, of course, is very limited so the conclusion that one comes to has to come from the facts available. The facts available, as we have them, is that 40% of advertising time has been given to Airtime at a guaranteed, at least, £140,000 and that GBC's maximum effort has been 48%. In actual revenue terms, GBC's revenue in the year 1980/1981 was £172,132. If that represented 48% it meant that at those rates in those days 40% would have been £143,000. In any case, even in those days on these figures I would have thought, unless there are a lot of other hidden benefits for GBC, that £140,000 seems to be a very low figure. In those days, in the year 1980/81, and I take, to rationalise, one spot, say, a 30 second film or VCR, which I think is the most common, in those days, in 1980/81, the charge per spot was £14.40. In 1981/82 it went up to £16, that is about an 11% increase so one would expect that for last year the overall total in advertising would have been a round about £190,000. But now I have here the rates that Airtime International propose to change and for that same 30 seconds spot which in 1981/82 was charged at £16, there are three rates. A late off-peak, an early off-peak and a peak and their rates are £22 for the cheaper one, £32 for the medium one and £42 for the peak rates. Taking the average, therefore the introduction of Airtime has doubled the rates being charged to advertisers. If that money was going to come back to GBC I think one would have to look at it but I wonder how much of that money is going to go outside Gibraltar, it is just going to evaporate, we are not going to see it. I think that is the question that has to be asked very carefully. Of course, one notices these little conditions that go in just go raise the charges. For example, the cheap charge I notice there is only about half an hour to three quarters of an hour in the day which is at the end. The early charge which is the second one, there is only one and a quarter hours and so over half GBC advertising time will be at the most expensive rate. I think that on the figures that we have the revenue could well be over £400,000 and the guarantee is only £140,000. I think we need to have some explanations for that, Mr Speaker. I will stop now to give the Chief Minister plenty of time to reply.

HON CHIEF MINISTER:

One of the current themes of the Leader of the Opposition's intervention is "these things don't look good." I think it doesn't look good that we should try here, where we are

only responsible at the time when we have to make the estimates and make provision, when the testing time will come for this, to interfere with an independent body. My answer was a comprehensive one, a frank and candid one on the basis of the information I had at the time and I have no more information now than I had when I answered the question a day and a half ago. First of all there was only one point which I said I would take up and in any case we have been busy otherwise. If I did mention in the first paragraph of my comprehensive reply to the four questions the exchange of letters with the Chairman, it was precisely to show that that is all I knew about the terms of the Agreement, I have heard a lot about the Agreement, but that is all I knew about the Agreement. I am still of the view that until the testing of this is shown, and I indicated if it was a fiasco what one would expect the Corporation to do, we must leave GBC to carry on their business the best way they think. It is already difficult enough to ensure their independence due to the fact that they have to come to us in order to get the "make-up" for what we think is proper. When the Hon Member was saying that they were already ganging up for thirty people, they could gang up for fifty people but when they come to Government they will find, as they did just before the frontier was due to open when they requested that the subsidy should be increased somewhat because they wanted to employ a number of people who would be dealing with advertising in Spain and so on, that we are terribly critical about these matters. On that occasion even at that time before the 21st June we said no. So they do not come for the difference of what they want to spend and what they can get. The officials come and see the Financial Secretary or the people concerned at Estimates time for what can reasonably be expected for them to run a service. It is on that basis that the grant is made without any strings attached. It is not the first time that GBC has an agent to deal with their advertising, for a long time they had Mr Louis Bruzon. He was in charge of advertising. He took whatever commission it was and, presumably, he made a living out of that, airtime was being sold through an agency. Now they have chosen to do it through another agency and we will see what happens. Two other questions, first of all, the advertising by Government. Government doesn't normally advertise because it doesn't sell anything. Communiques go out but the only point is that traditionally from the very beginning notices of public interest have been sent to television and they have published them. If we send a press release or a press notice they edit it or whatever it is and they publish it and I think this has been the case from the very beginning. The only point I made about this question which made perhaps in jest or fun, whether we were spending more money to make up for the possible loss of revenue with the Keep Gibraltar Tidy Campaign, well, I presume that because they had more time they had given it more time and at least the Keep Gibraltar Tidy Campaign has benefitted. But if we were to say: "We want so many spots for Keep Gibraltar Tidy" and we pay them £300 or £400 a year it would be £300 or £400 a year less that we would have to pay them in the subsidy so it doesn't matter one way or the

other. It is a matter that we will look into if Hon Members opposite think that in that way this means that GBC's independence is affected. Certainly, we will look into that and see whether instead of giving it in one way we will give it in another it does not matter. In fact, if anything we have quarrelled more with GBC because of the way they have put across sometimes very important public notices which they choose to edit the way they like. It is their privilege and we sometimes don't agree but they are independent and we will do our best to make sure that they are kept independent. The other point about the GBC Guide. First of all, let me say that this is not the first time that the GBC Guide has been issued with a newspaper. For a long time it was issued with Vox and whereas you got the free GBC Guide in the same places you are getting them now, you got them really if you wanted them by buying Vox. This was thought to be convenient to them and to Vox, presumably, and to GBC and that is the way it was done. It is available at the Tourist Office, it is available at Hotels and until the matter is reviewed, as I said that I would look into it I will request that it be made available in more places in order that people may take it. I think this is a matter of advertising and the way that GBC does it, again, is their own problem. I agree that as many copies of the free guide which gives details of GBC should be made available. The question of, "if the frontier had opened local advertisers would have been squeezed out" is, I think a lot of nonsense because there was still 60% of advertising available locally because the advertising company was only buying 40% of the time. That, I think, is absolute nonsense. In fact since the intention of the opening of the frontier was announced they increased the service of the advertising department in order to be able to gather more advertising in that 60% that they had available having regard to the contract that they had made with Airtime International.

HON MAJOR R J PELIZA:

Would the Chief Minister give way? Is there any reason why those who were advertising before should have been penalised? Why aren't those allowed to use the 60% why must they use the 40%?

HON CHIEF MINISTER:

I don't know, that is a matter of the contract which, as I said, I have not seen. The other point that arises which makes the position even more difficult from our point of view is that already the Chamber, I understand, has questioned the legality of GBC doing what they have done and GEC have refuted that and the matter is in the hands of their respective solicitors and that is now a dispute between them and certainly we are not going to do anything that would either affect one party or the other at this stage. I have seen a number of advertisements by watching television recently, it may not be the same as they had before but some people have gone,

obviously, to get local advertisements. I said at question time that I would seek the cooperation of the House in obtaining the Hansard of the questions and answers on this matter early. Equally, I would seek the help of the House in obtaining the Hansard of this Adjournment debate and I will certainly ensure that the Gibraltar Broadcasting Corporation get a copy of Hansard as soon as possible and let them react the way that an independent body reacts in matters of this nature.

Mr Speaker then put the question that the House should adjourn sine die which was resolved in the affirmative.

The adjournment of the House sine die was taken at 7.00 pm on Thursday the 8th July 1982.