

GIBRALTAR

HOUSE OF ASSEMBLY



HANSARD

8 December 1982

REPORT OF THE PROCEEDINGS OF THE HOUSE OF ASSEMBLY

The Thirteenth Meeting of the First Session of the Fourth House of Assembly held in the Assembly Chamber on Wednesday 8th December, 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, LVO, 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 Zammitt - Minister for Tourism 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 Health and Housing
The Hon D Hull QC - Attorney-General
The Hon E G Montado - Acting Financial and Development Secretary
The Hon I Abecasis

OPPOSITION:

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

The Hon J Bossano

IN ATTENDANCE:

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

PRAYER

Mr Speaker recited the prayer.

OATH OF ALLEGIANCE OF NEW MEMBERS

The Hon E G Montado, Acting Financial and Development Secretary, took the Oath of Allegiance.

HON CHIEF MINISTER:

Mr Speaker, I would like to welcome perhaps the youngest ever Acting Financial Secretary that this House has had. The acting appointment is unfortunately caused due to the absence of the Hon Financial and Development Secretary, Mr Reginald Wallace, due to medical reasons regarding his wife's health.

HON P J ISOLA:

May I also welcome the Hon Mr Montado to the House and we very much look forward to his participation in these proceedings and congratulate him. I would also like to express the sympathy from this side of the House to the Financial and Development Secretary and our hopes that his wife will recover speedily.

MR SPEAKER:

I join in the words of welcome to Mr Montado. I know that Mr Montado is not new at least to the procedure of this House. I have often seen him sitting in the civil service benches, he is now sitting in the Government benches and I am sure that he will contribute to the work of the House.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Thank you.

HON CHIEF MINISTER:

I am sure Members opposite will bear with him on his baptism of fire.

MR SPEAKER:

I have no doubt that they will but if they do not I will make sure that they do not transgress the rules in so doing. May I also wish Mrs Wallace a speedy recovery.

HON CHIEF MINISTER:

The feelings will be conveyed.

CONFIRMATION OF MINUTES

The Minutes of the Meeting held on the 12th October, 1982, having been previously circulated, were taken as read and confirmed.

COMMUNICATIONS FROM THE CHAIR

MR SPEAKER:

I would like to make a statement to the House. Hon Members will recall that on the 21st December, 1981, I made a statement regarding the interference with the proceedings of the House on the 18th December, 1981, by Mr Michael Feetham, a pressman representing the newspaper "The People".

I ruled at the time that the press privileges accorded to Mr Feetham should be withdrawn and banned him from entering the precincts of the House until further notice.

In view of the letter of apology I received from Mr Feetham shortly after the incident in question and the time that has elapsed since then, I have decided to lift the ban I imposed on Mr Feetham from entering the House of Assembly and I so rule.

PAPERS LAID

The Hon the Chief Minister laid on the table the following document:

Principal Auditor's Report on the accounts of the
Gibraltar Broadcasting Corporation for the year ended
31st March, 1982.

Ordered to lie.

The Hon the Minister for Economic Development and Trade laid on the table the following document:

Gibraltar Census Report - 1981.

Ordered to lie.

The Hon the Minister for Public Works laid on the table the following document:

Principal Auditor's Report on the accounts of the
Gibraltar Quarry Company Limited for the year ended
30th November, 1981.

Ordered to lie.

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

The Post Office (Private Letter Box) (Amendment)
Regulations, 1982.

Ordered to lie.

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

- (1) The Employment Injuries Insurance (Claims and Payments) (Amendment) Regulations, 1982.
- (2) The Social Insurance (Contributions) (Amendment) Regulations, 1982.
- (3) The Social Insurance (Benefit) (Amendment) Regulations, 1982.
- (4) The Social Insurance (Overlapping Benefits) (Amendment) Regulations, 1982.
- (5) The Non-Contributory Social Insurance Benefit and Unemployment Insurance (Amendment of Benefits) Order, 1982.
- (6) The Employment Injuries Insurance (Benefit) (Amendment) Regulations, 1982.
- (7) The Social Insurance (Amendment of Contributions and Benefits) Order, 1982.

Ordered to lie.

The Hon the Attorney-General laid on the table the following document:

The Jury (Amendment) Rules, 1982.

Ordered to lie.

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

- (1) Supplementary Estimates Consolidated Fund (No 3 of 1982/83).
- (2) Supplementary Estimates Improvement and Development Fund (No 3 of 1982/83).
- (3) Statement of Consolidated Fund Re-Allocations approved by the Financial and Development Secretary (No 9 of 1981/82).
- (4) Statement of Consolidated Fund Re-Allocations approved by the Financial and Development Secretary (No 3 of 1982/83).
- (5) Statement of Consolidated Fund Re-Allocations approved by the Financial and Development Secretary (No 4 of 1982/83).

Ordered to lie.

ANSWERS TO QUESTIONS

The House recessed at 1.05 pm.

The House resumed at 3.25 pm.

Answers to Question continued.

THE ORDER OF THE DAY

MR SPEAKER:

The Hon the Minister for Economic Development and Trade and the Hon the Minister for Public Works have given notice that they wish to make statements. I will then call on the Hon the Minister for Economic Development and Trade.

HON A J CANEPA:

Thank you, Mr Speaker. Sir, earlier in these proceedings I tabled the 1981 Census Report. The 1981 Census itself is the most important and comprehensive stock-taking of Gibraltar's population, providing a detailed demographic, manpower and housing analysis. Statistics from a census have a unique value because they cover all persons and households, and therefore long-term changes can be measured given the continuity of information from one census to another.

The Census has produced a range of statistical information, not just in the form of a count of individuals, but by way of household composition, housing conditions, levels of employment and economic activity and other social indicators. This information provides a firm factual foundation which is important for decision-making and in the planning of economic and social policies. The Report contains a very considerable amount of data and provides a factual setting for use not only by the Government but also by those in commerce and in the trade unions.

It is not my purpose in this brief statement to undertake a detailed analysis of all the data contained in the Report, but I would like to highlight certain aspects. The population increase since the last Census in those age groups which are at the pre and post-retirement age will have implications for the future provision of pensions and care for the elderly. At the other end, the figures for those under school age reveal that, barring a major shift in population density from one area to another, there should not be any significant requirement for more places in the first schools. The housing tables confirm the extent of both the overcrowding and overhousing situation in the public and private sectors, and will assist Government in its housing policies. The manpower analysis, which is the most detailed and extensive section of the report, provides an invaluable data base to examine the pattern and distribution of labour and future training needs. A specific detail which might be of interest to the House is that life expectancy for both males and females has increased from 68.6 years to 71.4 years and from 72.5 years to 75.5 years respectively.

Mr Speaker, I would like to take this opportunity to express my gratitude on behalf of the Government to Mr H A Fell, the Census Commissioner, for producing what must undoubtedly be Gibraltar's most comprehensive Census ever. I would also like to thank his staff, the enumerators and coders, the Overseas Development Administration for the computerisation of the data and the householders of Gibraltar for their excellent response.

HON P J ISOLA:

Mr Speaker, I would like to say that we have been enormously impressed with this report and all I would like to say is to add our own congratulations to the Census Commissioner and all those people who assisted in the compilation of this Report.

MR SPEAKER:

I will then call on the Hon the Minister for Public Works to make his statement.

HON M K FEATHERSTONE:

Sir, measures have been adopted in the past to reduce vehicular traffic movement in the central business area of the city for the benefit of pedestrians. Government feels the time has come to move towards a situation where certain parts of the central business area will be totally free from vehicular traffic at least during part of the day. With this object in mind an exhibition was held in May of this year which was the subject of a public participation exercise covering both the Cornwall's Parade proposals and the pedestrianisation of Main Street and its side streets. The feedback from the public has indicated an almost unanimous acceptance of the proposals presented.

However, Government has also taken into consideration the views expressed by certain persons, groups and business concerns who have indicated the particular problems to which these proposals could give rise.

Government has come to the conclusion that although the aims and proposals presented to the public last May are still the ultimate objectives, these should be applied in stages and should follow a period of experiment in order to allow reasonable time, to those who feel they might be adversely affected, gradually to adjust to the ultimate situation.

The final aim of Government is totally to pedestrianise Main Street from its junction with Engineer Lane to the junction with Library Street, together with all the side streets to the east and west of that length of Main Street.

The environmental improvements to this pedestrianised area will ultimately include decorative paving, new street-lighting, public benches, the planting of trees and plants and other features associated with townscape design. It is envisaged that such environmental improvements will lead to a wider use of open air facilities for eating and drinking which will further improve the general visual and social environment in this our central area.

The time has come, Mr Speaker, when we must move positively towards providing people, going about their business in the central area, with the experience of enjoying the quality of life, by eliminating totally, for the major part of the day, the conflict created by the motor vehicle. But as I have said we intend to tread carefully.

Rather than use the expression "to set the wheels in motion" I would prefer to say that "our first step" in the gradual process towards the ultimate pedestrianisation aims is as follows:-

As from Friday the 17th December, and for a trial period of three months, the length of Main Street between Tuckey's Lane and City Mill Lane will be totally pedestrianised between 11 am and 7.15 pm every day excepting Sundays and public holidays when the Street will be open to all traffic.

The pedestrian area will also include Bell Lane, Market Lane and Horse Barrack Lane.

Tuckey's Lane will be closed to all traffic between the hours of 11 am and 7.15 pm except for specially authorised vehicles such as taxis conveying fares to the Montarik Hotel. These will enter Main Street via Tuckey's Lane turning left and proceeding north along Main Street.

Outside the pedestrianised hours, overnight parking will be allowed in Main Street between the hours of 7.15 pm to 8 am the following day, and the delivery and collection of goods by motor vehicles will be permitted between the hours of 8 am and 11 am only.

Government feels confident that the community as a whole will welcome this experiment and it is hoped that, once we have enjoyed the advantages of total pedestrianisation, all sectors of the community will respond positively to further steps towards our ultimate aim. Thank you, Sir.

HON MAJOR R J PELIZA:

Mr Speaker, the Minister has stated the hours between which some traffic will be allowed for deliveries and so on. Has the Minister taken into account the modern household which has a number of appliances which may need repairs during other hours and will some provision be made for service engineers to be able to collect and deliver things like that?

HON M K FEATHERSTONE:

No, Sir, provision will not be made. The thinking of a Committee that was set up to study this is that once you start making provisions for one person you will find so many people can find excuses why they should also have provision that the whole thing would turn into total chaos. The whole idea is that during the hours of 11 am to 7.15 pm there will be no vehicles whatsoever except for the absolute dire emergency of the Fire Brigade or an ambulance dealing with somebody in the pedestrianised area.

MR SPEAKER:

I understand that the Hon the Attorney-General wishes to make a statement by way of explanation.

HON ATTORNEY-GENERAL:

Hon Members will recall at the last meeting that three motions relating to Social Security were approved by the House. It has come to my notice that one of them in two places had a decimal point which should not be there. It may sound a trivial matter but on this occasion I felt that it was really a point of substance rather than merely a typographical matter. The Order concerned was the Employment Injuries Insurance (Amendment of Benefits) Order, 1982, it was Clause 4, sub-clauses (b) and (c) and in each case the figure "£84.00" should be "£8,400" which when one looks at the text of the principal Ordinance it will be seen that it is clearly meant to be that way and the figure "£94.00" should be "£9,400".

MR SPEAKER:

I think it is basically a typographical error and the Hon and Learned Attorney-General is asking the leave of the House to make the relevant amendment without having to come with the Bill again. So I think leave is granted.

MOTIONS

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, I have the honour to move the motion standing in my name in the Order Paper.

MR SPEAKER:

I have been asked by the Hon Financial and Development Secretary whether he would be granted the leave of the House not to have to read the motion which has been circulated which is lengthy, so it will be taken as read.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Thank you, Sir. Under the provisions of the British Nationality Act, 1981, new British Nationality Fees Regulations, 1982, have been made in the United Kingdom and will become operative on the 1st of January, 1983, when the Act itself comes into force. The main purpose of these regulations is not to increase the present level of fees but to reconcile them with the provisions of the new Act. As the Hon the Chief Minister informed this House in October this year, a fee of £5 per person for registration as a British citizen under Section 5 of the Act, will be charged to cover local administrative costs. There is provision in the law to waive this fee in cases of hardship on the recommendation

of the Director of Labour and Social Security. No fee will be charged by the United Kingdom for such registration. Additionally, revenue from fees collected in respect of applications for British dependent territories citizenship which are processed in Gibraltar, will accrue to the Gibraltar Government. Applications lodged in Gibraltar for other categories of citizenship, other than under Section 5, and for British Subject status will be processed in the United Kingdom. The fees will be collected on an agency basis only and credited to the United Kingdom Government. The only other main change which I wish to highlight is that the prescribed fee will be payable on submission of the application and not after the application has been approved as is the case at present. On a final note, I would draw the attention of the House to an inadvertent omission of the pound sign in the column headed Amount of Fees. Sir, I commend the motion to the House.

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

HON P J ISOLA:

Mr Speaker, I think that the only item on which I would like to talk about is the £5 registration fee, the other fees are really not relevant, well, they are relevant, of course, but they, not surprisingly, follow predictable lines. Sir, Clause 3 of the Schedule says: "Notwithstanding the provisions of subsection (1)(a) in section 2 of this item, the fee payable in respect of the registration of a person as a British citizen under Section 5 of the Act may be remitted in cases of hardship on the recommendation of the Director of Labour and Social Security". Is it possible for the Government to consider putting a maximum amount payable by any one family because, Mr Speaker, without being in penury what is likely to happen, of course, is that whole families will register together and a married couple with four children or five children would have to pay something like £30 which I think is rather a lot. Could not some amendment be made to this so that there is a maximum fee payable in respect of a family unit, say, a maximum of £20, rather than make these families have to make a case of hardship. It seems to us that although £5 for one person does not seem to be very hard but if you have a family with young children and want to register the whole lot, it is going to be hard. Apart from that, of course, we would have liked to have seen if possible no fee at all because we would have liked to have seen people registering as of right at no cost at all. I would like to say at this stage that the British Government has been extremely generous to Gibraltar in this, in agreeing to the registration for no charge at all, having regard to the fact that people who register in England will have to pay considerable sums of money. Certainly a gesture on the part of Gibraltar to those who wish to exercise their right to be British citizens would be most acceptable on this side of the House.

HON CHIEF MINISTER:

Mr Speaker, when I answered Question 207/82 by the Hon Member about what were likely to be the costs, I stated that no charge would be made on the registration, a fee of £5 is to be charged to cover administrative costs and I said that there would be provision for remittal and this has been honoured in the Regulations. I, being responsible in my schedule of responsibilities on matters connected with Nationality will of course keep a close eye on this but it must be remembered that we are spending, as the Hon Member has said, substantial sums of money to provide the facilities and to expedite it and that I will be guided, I hope, that in cases of applications for remission by reports from the Director of Labour and Social Security, certainly in the case of big families, having regard to their total income that will be one of the matters that would be considered. Perhaps the head of family might have to be asked to pay and then the younger ones remitted, or half remitted. I can assure the House that we will try and keep the charges to be obtained from this commensurate, if at all, because they may be more expensive, of the administrative charges and I will take into account this question of package registration, so to speak, of families and I will try to take that into account. I think it is going to be very difficult if we are going to exercise a remission power, to set it out in the law. I can assure Hon Members that as far as I am concerned the remission will be done in a sensible way and any case where anybody alleges hardship, whether they are on supplementary benefits or not, I will ask for a report to be obtained if there is an application for a remission. I only have one point to make that has obviously not been picked up by the Opposition but which concerns me a lot and you will see that the Financial and Development Secretary in his statement said that the only difference in the fees are that now the fees on naturalisation have to be paid on application made. I was very concerned on the grounds that the money should be paid before, I was very concerned because this was copied from the British Nationality Rules lest people might be frightened of making an application of putting £200 into it and then find that the application was not granted and that they must lose the £200. We were going to carry out an amendment to the Rules to make sure that that was not the case but I do not think it is necessary. There was a very long debate in the House of Commons when these regulations were brought in because Mr Hattersley, the shadow Home Secretary, had made a lot about the question of the fee of £200 particularly in England making it prohibitive for some people to apply for naturalisation but that was already the rule. In respect of payment, Mr Raison the Minister, said in the course of the debate: "Hon Members will be aware that an unsuccessful applicant has the fee refunded". So there is no question about the fact that because you have to make payment on application that if you are not successful you won't get the money. In fact, there was some reference even in the debate as to whether the Government should pay interest on the money whilst the money was deposited.

The new feature of the rule is that whereas now you make an application and if it is accepted you pay the \$200, as from now, when these regulations come in, you have to put in with your application \$200. If the application is accepted that is the fee, if the application is not accepted then the money will be refunded.

HON MAJOR R J PELIZA:

Mr Speaker, I would like to support the views expressed by my Hon Friend the Leader of the Opposition in that it seems to me somewhat unfair that United Kingdom citizens as we are now, should have to pay for the continuation of holding that same international status which is in fact the situation. What we are being asked now is to register for something which we are already and in the process we are going to be asked to pay on top of that. The one who is going to change his status is the one who will cease to be a United Kingdom citizen which is the equivalent today by the contraction of that citizenship to the United Kingdom and to other places like Gibraltar and the Falkland Islands who apparently are going to have it when the present Bill is read for a second time, and I would have thought that in principle it is wrong that people should be asked when retaining their present international status, to pay for it. In fact, this is what our own battle for citizenship was based on, on the fact that we wanted to retain our present status because this is what was being taken away from us and in fact I remember the Chief Minister himself arguing once upon a time when we were asking for full citizenship, when he used to say that legally we have exactly the same citizenship as the people in the United Kingdom but the difference was that we were obstructed from entering Britain so I am sure that now he will recall this argument and the argument that applied then applies equally today and I think it is monstrous that people who hold the citizenship, those who want to keep it, now have to pay \$5. I would have thought, that from the financial aspect the amount is insignificant in that this is going to be really a once and for all operation. I think when most people register because those who are going to register in my view will do it when they have the first opportunity, and those who won't will be a trickle as time goes by, I do not foresee the need to keep a big office going all the time purely and simply to register for United Kingdom citizenship when surely the bulk, I would have thought, would do so very quickly. In fact, I think the provisions are, if I remember rightly, that the place was going to be used for a number of weeks or months, I do not know how long, but I hope we are not going to keep a huge organisation for registration of citizenship which obviously will come to an end fairly quickly and then after that we will only have a trickle. Since basically this is going to be a once and for all expense and the amount, 10,000 people registering I suppose, if the cost of doing that I hope it is not going to cost more than that, is going to be \$10,000 or even \$50,000, I would have thought it more than fair that because in principle it is wrong to have to make an individual case for retaining his

present citizenship, I think it would be wrong, in principle, let alone I think in practice, that this should be so. But if it came to the end where the Government could not agree with his proposition, I hope they do, if they could not agree with this proposition and in fact may I say so, the fact that Her Majesty's Government is not doing it

HON CHIEF MINISTER:

If the Hon Member will give way I may try to help him. First of all, when I answered his question on the 12th October no objection was raised to that and in fact the Hon Member was very pleased that the figure of \$5 had been mentioned and that it had been kept low. I said in my answer that I was making provision for hardship but let it be made quite clear that in my view, I haven't got it in writing but this is the way that things have developed, in my view the reason why the British Government have not charged a fee as they charge for every other registration is because we are going to take charge of processing the papers and had they been processing the papers then they would have charged a much higher fee because all the fees in the Nationality Act are much higher than \$5 and that is why the burden was put on us and we have to provide the logistics for doing it and that is why they have remitted that and left the work to us. That is why we are charging a nominal fee and I have said, and I will say so again, that I will look at this with all compassion and regard to the question but we must have a fee because otherwise we are going to set up a timing, we do not know whether it is going to be a year or not. Let it be remembered that the Gibraltarian Status Ordinance was passed 20 years ago and people are still registering as Gibraltarians who have a right to register and have not registered. In any case every time there is a birth there will be a registration so there will have to be a set-up to carry on dealing with this ad eternum and it is not the same status, it is a result of our efforts, or the efforts of everyone in this matter, that has given us the right to register which has been denied to other people and only recently given to the Falkland Islands. There is a change and we have been given this privilege and all we are trying to get is part of the administrative charges and no more. I say that this is really quite reasonable, nowadays on any kind of registration any fee under the Ordinance is much higher.

HON MAJOR R J PELIZA:

I think particularly if the Treasury has a hand in it there is always a case for making charges, of course there is, but one has to look at it in the merits of whether it is justified, based on the principle of what we are charging. I hope the Minister for Economic Development is not afraid that I may convince the Government if I carry on. Perhaps the arguments are very strong and I think that if he himself were to give careful thought to this I think he will see that there is I think some merit in what I am saying. I think it is all very

well for people who have money and perhaps can give it away and that's it. But £5 is quite considerable to the working man today and particularly as my Hon Friend said, if that working man has got a family, the wife is not working, they obviously do not want to go through a means test to see that the children do not have to pay the £5, they do not want to go round begging for what after all is theirs, all they are saying is I am keeping my citizenship - ah, well, if you want to keep it you have got to pay £5. I think in principle it is very wrong.

HON CHIEF MINISTER:

Why didn't the Hon Member say so in October when I answered the question?

HON MAJOR R J PELIZA:

Because I am sure the Speaker would have said that we are not going to debate the issue.

HON CHIEF MINISTER:

It was accepted.

HON MAJOR R J PELIZA:

Of course not, Mr Speaker, we are not going to carry on questioning and questioning and then eventually have the Chief Minister standing up and saying: "I am not going to answer any more". Therefore, Mr Speaker, you will have noticed that I myself hardly ever stand up to ask questions and this is the reason why I do not do it. And now the Chief Minister has said: "Why don't you ask more questions?"

HON CHIEF MINISTER:

No, I did not say that. If the Hon Member will give way. He gets terribly excited. I gave an answer, it was accepted as good and there was no indication until this moment because it occurred to somebody to make such a fuss about it. We had plenty of time for representation, plenty of time to have risen to say: "I have changed my mind, when you answered that question I thought it was right it should be different", and now make all this fuss. This is instant Government.

HON MAJOR R J PELIZA:

This is not instant Government, this is the procedure in the House when matters are brought here, and this is the reason why you allowed me to speak today, Mr Speaker, is when this House is entitled to discuss. Even if at that time I had thought of it and did not want to or wanted to and did not, there is always plenty of time to reflect on this matter. If the Chief Minister in answer to a question says: "I am going to charge £5", that is what he wants, instant reaction, yes or no. But this is not possible precisely because we do not want

instant Government, we want to think about it and now is the time, when the proposal is made to the House, that one ought to think about it and one has got to debate. I hope, Mr Speaker, that the Chief Minister comes here with an open mind to listen to what the Opposition has got to say. There is nothing wrong, as I see it, that in the light of what is said here today in fact I would think highly of him if he thought: "Well, yes, there is a case, I will give it more consideration, there is a case which I did not realise at the time but I do now and I think that I should say there is a case for doing away with any charge for registration". This is the point I am making. This is not making a political debating point or anything like that. I think it is a very serious matter of principle and in the end they are going to say: "To retain my citizenship I have had to pay £5". I think that, Mr Speaker, is a very shameful situation to be in and I do hope that the Chief Minister will give it careful thought and do away with those £5. The cost to the Government is insignificant, the value of our citizenship is very high, much more than £5.

HON A J HAYNES:

Mr Speaker, I am sorry that the Chief Minister has been caught in bad light and that he wanted prior warning of what we are going to say but I would say the Hon Member and my colleague have informed Government of our views on this matter. In answer to a question earlier on today, we were told that in the event where somebody has a passport which has a number of years to run, that he will nevertheless be required to pay his £5 if he seeks to register as a British Subject. We for our part think that that is another case of hardship especially when the passport has been recently acquired, is valid for another 6 or 7 years or more and nevertheless the individual will be required to make this payment for registration. In that respect we have given the Chief Minister notice that that is a case where we would like automatically no charge being applicable and it is in this particular point, Mr Speaker, it was of interest to me to note that the Chief Minister's reply said that it would be possible to incorporate the registration in the existing passport. And this brings me to the question on the format for the new passport and to its length of validity, the wording it will have on the cover and any endorsements it will have included inside. I wonder whether it will have the words "Colony of Gibraltar" on the front page, whether it will be endorsed for European Economic Community purposes because we are aware, Mr Speaker, of the problems which a number of Gibraltarians visiting the United Kingdom have encountered whereby they are not as well attended by the Customs officials in the United Kingdom as one would have hoped and in fact in many instances they have not been recognised as European Community subjects, and it is something therefore that we would ask to be included in the passport, the endorsement of for European Community purposes to make it absolutely clear that the passport holder is not only a fully accredited British Subject but also a member of the European Community and it is in this respect, Mr Speaker, if it is possible for somebody who already has a passport to merely have that passport endorsed, is there any particular reason.....

HON CHIEF MINISTER:

If the Hon Member will give way. I think he has got it wrong. Of course it will be endorsed after registration.

HON A J HAYNES:

I am not sure I understood, of course it will be endorsed after registration.

MR SPEAKER:

One has to register first under the British Nationality Act, and then your passport will be endorsed. You will get a certificate apart from the passport.

HON A J HAYNES:

Does that mean that one will use the same passport and just have a stamp on it or a bit of paper in it or not?

MR SPEAKER:

You will get a certificate that will entitle you to have the endorsement on the passport. This is what I have gathered from what I have heard in the House.

HON A J HAYNES:

For £5 you will get a rubber stamp on your passport.

MR SPEAKER:

For £5 you will get a certificate which will entitle your passport to be endorsed.

HON A J CANEPA:

Mr Speaker, is that relevant to the motion before the House?

MR SPEAKER:

It is relevant to the extent that a fee is being raised.

HON CHIEF MINISTER:

It was in answer to another question that we imagine that valid passports of Gibraltar, of people who have registered or gone through this registration, will have the Gibraltar passport endorsed but you have to register first.

MR SPEAKER:

Precisely, in other words, the fee which is being charged is for the registration and to that extent it is relevant.

HON A J HAYNES:

Well, it seems obvious to me that someone who wishes to be registered has to make the application to be registered as a British Subject. Whether or not that person has a valid passport is irrelevant, he will register on the basis of his being a Gibraltarian, he will be considered and it will be as of right as I understand it. Now, my point is.....

MR SPEAKER:

What will be as of right because we are talking at cross purposes?

HON A J HAYNES:

That he will be registered as a British Subject.

MR SPEAKER:

That will be as of right but the endorsement will not be as of right unless you register before.

HON A J HAYNES:

I am sorry, Mr Speaker, that is my point. Is the Government, when they are talking about a fee of £5, going to do more than give you a slip of paper or does it include a passport?

HON CHIEF MINISTER:

It is like a registration of British naturalisation. You get a certificate that you have been registered under Section 5 as a full British Citizen. Then when you want your passport you can have it endorsed in the Gibraltar passport or you can ask Britain to give you a passport direct with that registration. One is in consequence of the other.

MR SPEAKER:

Precisely.

HON A J HAYNES:

I have my certificate which says I am a registered British Subject. I also have a valid passport issued in Gibraltar. I do not need therefore any endorsement in the passport or do I? If I want to retain my Gibraltar passport because it still has

7 years to run and I have a registration certificate from the British Government, so I need to take both together to show that I am both a Gibraltarian and a British Subject or will it be possible on the strength of my registration certificate to have some sort of stamp included in my passport which denotes that I am a person who has applied and his application has been successful? I understood from the answer to the question by the Chief Minister that the format of the new passport and the endorsement were not incompatible and that the new passport is so similar to the present one that it would be possible to have the registration successful which has to be made and thereafter have an endorsement put inside the passport. If that is the position, Mr Speaker, what is the format therefore of the new passport, that is my concern at the moment, to establish this point. I would be grateful, Mr Speaker, if the Chief Minister would intervene in this debate.

MR SPEAKER:

The Chief Minister cannot do anything because he has already had his contribution. Perhaps the Mover of the motion when he exercises his right to reply, will be able to give you some information but anyway this is a debate and therefore you are entitled to ask what you wish, you may be getting a reply at a later stage.

HON A J HAYNES:

Well, Mr Speaker, the information I require which is what I said in the commencement of my intervention is for information regarding the wording and the frontpiece of the new passport.

HON CHIEF MINISTER:

On a point of order, Mr Speaker, I do not think that that arises out of the motion regarding the registration of British Subjects.

MR SPEAKER:

The Hon and Learned Mr Haynes has had his say on the motion, whether in reply you wish to reply on that matter or whether any other Member wishes to reply is another matter. If there are no other contributors I will now call on the Mover to reply if he so wishes.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

There is nothing I would like to add, Mr Speaker.

HON MAJOR R J PELIZA:

Mr Speaker, I do not know how we are voting but I cannot vote in favour of \$5 registration fee. It is really against my conscience and I could not do it.

HON A J HAYNES:

I shall join the Hon and Gallant Major Peliza.

MR SPEAKER:

You are free to do so. We will take a vote.

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 J B Perez
The Hon Dr R G Valarino
The Hon H J Zammit
The Hon D Hull
The Hon E G Montado

The following Hon Members voted against:

The Hon A J Haynes
The Hon Major R J Peliza
The Hon W T Scott

The following Hon Members abstained:

The Hon P J Isola
The Hon A T Loddio
The Hon G T Restano

The following Hon Members were absent from the Chamber:

The Hon I Abecasis
The Hon J Bossano

The motion was accordingly passed.

The House recessed at 5.30 pm.

The House resumed at 5.55 pm.

BILLS

FIRST AND SECOND READINGS

THE IMMIGRATION CONTROL (AMENDMENT) ORDINANCE, 1982

HON CHIEF MINISTER:

Sir, I beg to move that a Bill for an Ordinance to amend the Immigration Control Ordinance (Chapter 74) be read a first time.

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

SECOND READING

HON CHIEF MINISTER:

Mr Speaker, I crave leave to refer to papers because this is a very involved matter and I want to get it straight. I have the honour to move that the Bill be read a second time. The British Nationality Act, 1981, which comes into force on the 1st January, 1983, contains important provisions affecting the people of Gibraltar. The Act gives those Gibraltarians who are United Kingdom nationals for the purposes of the European Community the right to register as British Citizens under Section 5. The Act also creates a class of citizenship known as British Dependent Territories Citizenship and although that class applies to the peoples of the dependent territories as a whole, rather than the individual territories, it is a concept that is important for each of those territories because it is directly concerned with their status as such. Also, although it is a citizenship that is defined in general terms, the separation of that category of citizenship from the United Kingdom citizenship clearly brings it closer to a category that relates specifically to each territory. Following on Section 5 of the Act, Her Majesty's Government has reviewed the declaration deposited with the Community and defining who is a United Kingdom national for Community purposes. A revised declaration has now been deposited with the Community. May I remind Hon Members what the declaration was which made the people of Gibraltar Community Nationals in the Treaty of Accession. The wording amongst others was: "Persons who are citizens of the United Kingdom and Colonies by birth or by registration or naturalisation in Gibraltar or whose father was so born, registered or naturalised", that is the 1973 Accession Treaty. As far as the present one is concerned we now have a different definition which is a much wider definition which says: "British Dependent Territories Citizens who acquire the citizenship from a connection with Gibraltar". I will elaborate a little more on that because it is rather important. This revised declaration has now been deposited with the Community. So far as Gibraltar is concerned it provides, in effect, that everyone who derives British Dependent Territory citizenship through a connection with Gibraltar will have Community national status. For us this will be a more comprehensive declaration than previously was the case. I commend the difference between the particular to the general. The new Act does not abrogate the status of Gibraltarians as nationals for whom the United Kingdom remains responsible in international law. Moreover, the status of British Dependent Territories citizens can be held concurrently with British citizenship under Section 5 of the Act. One of the main rights of a citizen is that of being able to enter freely and reside in the country or territory of which he holds his citizenship. It is important that we should in Gibraltar reinforce the standing of and discharge our responsibilities to persons who

have British Dependent Territories citizenship through a connection with Gibraltar by providing that they should have the absolute right to enter and reside in Gibraltar. As I have mentioned already, all such persons will have Community national status and the right of registration under Section 5 of the Act and by giving them residential rights here we are for our part carrying out into fuller effect the totality of the rights understanding. The Bill before the House is intended to achieve this object. It is an important measure that will require careful study. The nub of the matter is to determine what is a connection before the connection was defined in that it was by birth, by registration, by naturalisation or whose father was so born, registered or naturalised. Now it is much looser from a connection with Gibraltar; it is a very much wider thing. Therefore we should reinforce the standing and discharge our responsibilities to persons who have British Dependent Territories citizenship through a connection with Gibraltar by providing that they should have absolute right to enter and reside in Gibraltar. As I have already mentioned, all such persons will have Community national status and the right to registration under Section 5, and by giving them residential rights here we are for our part carrying out the fuller effect of the rights of standing. The Bill is intended to achieve this object. It is an important measure and we will need to consider this matter in the Second Reading today and we will not rush through this Bill in this meeting, we will do the Committee Stage at a subsequent meeting. The Attorney-General has had a number of conferences and talks with people in the Home Office dealing with this matter and I think it is fair that I should say that we have found them most helpful in their approach to this matter and in the way in which we should carry out our responsibilities and also on the question of the arrangements for the registration. We must distinguish between those persons who are British Dependent Territories citizens because they belong to other territories and those who belong to Gibraltar. I do not think we would envisage giving the right to residence in Gibraltar to 2½ million dependent territories citizens of Hong Kong. We also consider that the criteria by which we define a connection should be compatible with the principles laid down in Part 2 of the Act and to that we also gave an undertaking at the time to some of the Peers who were worried that if we got through the proposed amendment that was put in the House of Lords, we were going to give dependent territories citizenship galore and they could then through Gibraltar get into Section 5 and into England. We gave an absolute undertaking that that was never our intention. The statutes dealing with nationality in the United Kingdom and its territories must be connected and as such it will be widely taken into account of international law and the standing of our definition should be correspondingly greater. Under Part 2 of the new Act citizenship continues to be acquired broadly by birth, descent, registration or naturalisation. These are themselves simply general heads under which a person may qualify. There are further criteria that have to be met under the particular Sections in Part 2. For example, birth alone is not a sufficient qualification any more as from the 1st January, 1983. One has to be born, for example, to a British Dependent Territory citizen or to a

parent who is settled in a dependent territory. Settled means living in a territory without being subject to immigration restriction. Other criteria which are relevant under specific sections are the fact that a parent, grandparent or spouse is himself or herself a citizen and in some instances residence in or an appropriate qualifying connection with the territory. This latter term is defined in the Act itself. In principle, the Bill provides that one must be able to meet this criteria under the particular section which is relied on not in relation to the dependent territory at large but specifically in relation to Gibraltar. For example, where a person relies on his birth in a dependent territory coupled with the fact that one of his parents is a British dependent territory citizen, he will have to show that he was born in Gibraltar and that his parent, himself or herself, is a citizen by reason of a connection with Gibraltar. Perhaps I should stress here that this is only one of the provisions under which birth is a qualifying factor, there are others relating to descent. In these cases there must be a connection with Gibraltar through the parent or in some cases the grandparent. The Bill further provides that where citizenship is acquired by registration or naturalisation, that must have been done in Gibraltar, that is the same as it is now. The details of the Bill will require very careful consideration at length and as I said before it is not intended to take the Committee Stage at this meeting but to allow time to consider it, but finally in putting the matter in a concise term, because people who are going to be citizens of the dependent territory of Gibraltar must have the right to reside here as against those who were entitled to a permit of permanent residence, we have to define those who have a right to reside here and that will qualify them as a citizen for Community purposes and therefore a citizen under Section 5. I hope I have made myself clear and I will be happy in the course of the debate to clear up any matters that may arise. The matter is somewhat complicated and I have to adhere strictly to the brief.

MR SPEAKER:

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

HON MAJOR R J PELIZA:

Yes, Mr Speaker, I totally agree with the Chief Minister that this is a highly complicated matter, citizenship always is I think, and will probably carry on being so until we all are international citizens there is no question of any form of barrier anywhere and I do not think that will ever happen in the foreseeable or not even in the far future, I think there will always be this demarcation for one reason or another, social, economic and so on physically so because one has to control the number of people in an area and so on and so forth. But I think one does agree in the basic things that the Chief Minister has said as to how this is going to be done without going into the details of the legal phraseology and implications that they may have at the moment. I think that the Chief

Minister is wise in allowing this Bill not to be taken through all its stages now and giving time for people to reflect and perhaps find the odd flaw here and there that would be defeating the object which it is meant to achieve. I think, in principle, we agree with everything that the Chief Minister has said but my only concern is - and this was agreed earlier - that there is of course the Gibraltarian who has the right to register, a decision that he has got to make, not now or in the future, he has always got time. I do not believe there is a time limit as to when a Gibraltarian will have to register. But whether there is a time limit or there is not, and perhaps because there is a time limit and what the implications of citizenship is going to be in 10 years' time may have been forgotten, there should be a leaflet printed which clearly states the situation for an individual who decides to register and for that one who decides that he will not register at least for the moment so that at any point in time an individual who wants to find out what changes would take place if he decided to register, has an opportunity of doing so by looking at the leaflet which clearly sets out the implications. As I see it, the fact that one registers for British citizenship in no way derogates his Gibraltarian status. In other words, he is acquiring more rights, not losing any rights and I think this has got to be explained because I have heard already that people who register are almost going to cease being Gibraltarians and I think that this is a very mistaken notion which in my view should be put right. At the moment I think people who are really interested will enquire and everybody more or less knows but as time goes by and we leave this question behind there will be many people who will say: "Should I register and what happens to me if I do register?" Who does he call on to find out? Is it the Passport Office, the chap at the registry, consult a lawyer, he goes around and gets opinions? I think that this is so important that it should be laid down on a leaflet clearly set out in language that the layman can understand, not in the rather complicated legal phraseology which sometimes even legal brains cannot interpret. I think that the Bill is welcome, in fact, it is necessary because as the Chief Minister said, Gibraltar is not going to be the back door for people to get into Britain. This is just not right and this was not meant when we were given the privilege of continuing to keep our citizenship as against all the other dependent territories. I think that whilst one welcomes the Bill at the same time I think it is important that a leaflet should be produced which clearly sets out the position for Gibraltarians.

HON A J HAYNES:

The first point I would like to make is that I am not clear on the terminology having any connection with Gibraltar. This features twice in the Bill in Clause 2(2)(b) and 2(2)(1). I am not sure whether this is the most appropriate way of phrasing. I would like clarification and furthermore, Mr Speaker, I would also like to know if there is a drafting precedence for such a phrase. It seems either to be superfluous or ambiguous, I am not sure which. I refer to the phrase "having a connection with Gibraltar". I am not sure whether that is the precedence.

Another point, Mr Speaker, I note in Clause 2(2)(y) where the citizenship at any time of the spouse is a material qualification. In most of our Ordinances, Mr Speaker, we are discriminating against men rather than women so that under Gibraltar status it is possible for the wife of a Gibraltarian to obtain Gibraltarian status and it is rather like the camel passing through the eye of a needle for the husband of a Gibraltarian woman to obtain Gibraltarian status and that, Mr Speaker, is a discriminatory aspect which to an extent is reflected in our present Immigration Control Ordinance insofar as it refers to the spouse of a Gibraltarian woman under Sections 13 and 14 of the Ordinance and it appears that the proposed amendment is in fact doing away with the more precise terminology of husbands. And if that is the case, Mr Speaker, is there an amendment forthcoming in the Gibraltarian status whereby the husband of a Gibraltarian woman will be automatically entitled to Gibraltarian status and whether an amendment is going to be made to this discriminatory aspect of our law in relation to Gibraltarian status. That, Mr Speaker, is all I have to say at this stage.

HON J BOSSANO:

Mr Speaker, I take it that the question of Immigration Control is not a matter over which in fact the elected Government has control, am I right in thinking that, and that in fact it is the British Government our Constitution that has responsibility in this area? If that is the case to what extent are we free to determine the criteria that we chose to apply in Gibraltar? That is what I would like to know on the general principles of the Bill. On the question of the application of the criteria set out for eligibility to citizenship of dependent territories status in connection with Gibraltar, are we saying that people other than the straightforward case of a Gibraltarian born of Gibraltarian parents, would other people be treated in the same way as they would be treated if they were applying in the United Kingdom under the British Nationality Act in the United Kingdom or do we have differences of rules in the case of Gibraltar from the ones they apply there? I am thinking under the United Kingdom British Nationality Act, the right of somebody to apply under that Act if they are not English born and bred, shall we say, but who are immigrants that have settled in the United Kingdom. Are we applying the same in Gibraltar or do we have a different set of criteria under which we decide what the criteria should be in our case? I also think that it would be useful if in fact the actual UK legislation was available because I certainly haven't got a copy of it and I am not entirely familiar with this, between now and the time that we have to decide because if we are making reference to sections in the principal Ordinance which is not a local Ordinance then I think we ought to know what we are referring to, at least I would like to know. Also I think it would also be useful to if in fact in the United Kingdom any explanatory leaflet or anything of that nature has been issued by the Home Office for the guidance of people in UK, it would be a useful thing to have that available to look at before we come to the Committee Stage and Third Reading of the Bill.

MR SPEAKER:

Are there any other contributors?

HON ATTORNEY-GENERAL:

I would like, if I may, to cover some of the points that have been raised. I hardly need to say that this is an important matter not merely of law but which could be construed as political matters but it is not my intention at all, I think there is a technical level by which this could be discussed and I would like to speak, of course, at that level. I think there is no doubt at all that the British Nationality Act, even though it is a municipal act, will in fact shake British thinking on nationality for the future because it is the major measure by which the concepts of nationality are defined. I will leave aside Section 5 for the moment and concentrate on, if you like, the class of citizenship that most immediately affects Gibraltar, namely, the class of Part 2 citizenship. I think the important thing about that is that it is a general citizenship, a citizenship of all territories that come under that category and so what this Bill is going, as the Chief Minister has said, and if I may reiterate, is proposing to find a way of saying even though the citizenship is expressed in general terms, what are the essential characteristics that prove that a person has a connection with Gibraltar, in other words, the exercises that define what is a real connection with Gibraltar so that a person may be described as a Gibraltarian belong, that is what it comes down to, and if I may outline the approach that I have recommended and that is reflected in the Bill, the British Nationality Act lays down both in relation to British citizenship and also in relation to BDTC, it is quite a mouthfull to say it, various criteria which qualify one for eligibility, whether be it by registration, by birth or naturalisation. Taking the general proposition the Bill tries to make that more concrete, more specific in relation to Gibraltar so instead of saying birth in the independent territories, we say in the Bill birth in an independent territory, namely, Gibraltar itself. The point I am trying to make is that the criteria which are being used are criteria which as nearly as possible are ones which are already recognised in the Act. The technical merit I see in that is that as I said before the British Act will in my belief shake nationality thinking in Britain and that is going to have a certain recognition in international law because Britain has a major power and the nearer the criteria in this match, that the stronger I believe the definition of the connection to Gibraltar will be, so speaking in very general terms that is one of the things that the Bill tries to achieve. Another point I would like to make is this, that I think that when one is saying who has a connection with Gibraltar it is much more important to approach it by saying this, this and this positively give you a connection rather than having a negative definition by excluding. I believe myself in the longer term that is the more creative and constructive approach. So again even though it means going into the matter

at some length in defining what is the connection, I have used what I can think can be called the positive approach, that you must make this, you must make this, you must make this, and then if you have them you have your connection. The immediate concern, as I see it, of defining adequately and acceptably in Gibraltar what amounts to a connection with Gibraltar is, of course, to grant one of the most common attributes of citizenship, the right of residence in Gibraltar, and that essentially is the purpose under Part 2 of the Act which deals with British dependent territory citizenship. But in Gibraltar's particular case, as the Hon and Learned the Chief Minister has already pointed out, two other very important consequences will flow. The first is that it will decide who is entitled to registration under Section 5 as a British citizen for those who want it and the Chief Minister has already made the point that you can hold both statuses at once. Secondly, going on from that, it will also decide who is a United Kingdom national for Community purposes and I believe and I think the Minister is agreed on this, that those three aspects of the matter really are the totality of a Gibraltarian's right, I won't say they are the complete totality but they are three very important elements to be taken into account. I did say that the Bill will determine that, I would like to come to the point raised by the Hon Mr Bossano. The Bill is a Bill within Gibraltar. It is true that it is a matter which is a non-defined matter but as I see it and to the extent that I have an interest in constitutional law, I do not think that means that it is not something that the Gibraltar Government is going to act on and I think it may well be that the British Government has views but that is not to say that in Gibraltar one cannot take the initiative and put forward what should be the connection, what would be the factors that qualify one has having a connection. Strictly speaking in law I think the British Act is one thing and the Gibraltar Ordinance is another but it is significant to my mind that the British declaration simply says "a connection with Gibraltar" and doesn't go into any more particular detail and I am quite sure that in practice what is taken to be a connection with Gibraltar for the purposes of the British Nationality Act and also for the purposes of the Community will be what the Immigration Control Ordinance lays down as a connection. I am quite sure that in fact and in practice that will come to be the case. The Bill is very detailed, I appreciate that and I am not sure which other countries have yet had occasion to tackle it. I think the details merit very careful study and I think it would be very helpful, if I may say so, to have any comments. Another general point of approach is that in defining the various criteria I have tended to define them more tightly rather than more loosely and it may be that Members will feel that in this area one could be more relaxed but, for example, if Members would like to consider new sub-section 2, paragraph (f) and paragraph (g), as the Bill stands where you get nationality by registration or citizenship by registration or where you get it by naturalisation, you won't have a connection with Gibraltar unless you actually were registered or naturalised in Gibraltar. In one sense that follows the existing declaration which the Chief Minister has referred to.

It may be that on thinking about that Members might come to the view they want it slightly more relaxed. Another matter which at this stage I have defined tightly rather than less tightly is under paragraph 2(d). There is a reference to Crown Service in a dependent territory being a material qualification, if I can explain that a little more fully. That refers to one of the provisions in the Act relating to citizenship by descent where a person who belongs to a place may go and work overseas, have a child while he is overseas, and the part of the Act that this is referring to is intended to make sure that that child does not lose his rights vis-à-vis the country that his parents come from. One of the categories that is protected under the Act is the category of working in Crown Service overseas. As I have crafted it what it says is that you have this avenue open to you secure, your citizenship by descent, if your father or possibly your mother is working overseas in the service of the Gibraltar Government. It may be that on further thought, one would not see any objections to widening more fully but I have taken the cautious approach at this stage rather than a more liberal approach, I will not say liberal, but a wider approach. If I can refer to the points raised by my Hon and Learned Friend, Mr Haynes, I think he referred to sub-section 2(b) and sub-section 2(i) and he queried the term "having a connection with Gibraltar". Before I comment on those two paragraphs in particular this Bill of course is about defining what is meant by the term "having a connection with Gibraltar". In those two particular provisions, one of the qualifying requirements was not only that you yourself meet certain conditions but that your own parents are already citizens having a connection with Gibraltar. That is the only significance of the references but the whole Bill is concerned to say what is meant by a connection. I take the point made by the Hon Mr Bossano that really one has also to look at the British Nationality Act. It is possible to provide copies. If he thinks I am being unhelpful I must say myself I would not like to get into the exercise of providing large numbers of copies.

HON CHIEF MINISTER:

I will cause copies to be made available to Members.

HON ATTORNEY-GENERAL:

The one other point I wanted to refer to was that there was a query as to could this mean that Gibraltar was taking on obligations wider, or perhaps the point was similar to obligations which may be taken on in Britain in relation to people who are not what one might call native born Britons and, as I said before, the various criteria I have spelt out are criteria drawn from the scheme of the British Nationality Act and therefore there is a similarity but on the point which I think is the one which is really of concern, unless you already have a connection in the sense that you would all understand and that is belonging to the territory, or unless you go through the naturalisation process, the one situation

in which that can happen, I think, and that is the principle of the British Nationality Bill, is that if you yourself happen to be born in a particular place and one of your parents has settled there and as the Chief Minister mentioned settled means living in a place without being subject to any restrictions and to immigration control. The answer, in short, is this; that if somebody is in Gibraltar and is entitled to permanent residence in Gibraltar and has a child, the child could qualify both under British Nationality Law and under the definitions proposed in this Bill, as a person having a connection. I know it is a very complicated matter and I feel I have been rather complicated in explaining it, from a technical point of view I think it is very important, if I may say so, that everybody should have the opportunity to look at it in detail and by reference to the British Nationality Act itself.

HON J BOSSANO:

I think if I can use an example to illustrate the point that I was trying to make that I wanted an indication from him. If we take the example that he has given as regards Crown Service under the Government of a dependent territory. As I understand it what we are saying here is that a British Dependent Territory citizen would be considered to have a connection with Gibraltar if in fact where one of this criteria is to be found in the UK Nationality Bill for the purpose of identifying somebody as a British Dependent Territory citizen the place which identified him was Gibraltar, so that in the case, for example, of this if we are talking about somebody from, say, Hong Kong working overseas for the Hong Kong Government, he would retain his citizenship and his descendants would retain citizenship because he was in the service of the Hong Kong Government overseas. In our case it would have to be somebody working overseas for the Gibraltar Government. By analogy with that, the point that I was trying to have elucidated, Mr Speaker, is if we take sub-clause (h) where it says: "where residence in a dependent territory is a material qualification that dependent territory is Gibraltar". By analogy that would tell me that if there was something that said after so many years residence in a dependent territory you become a British Dependent Territory citizen of the territory of which you have been resident, and in our case we are saying we apply that in our case if that territory is Gibraltar but it does not tell us what the residential qualification is all that we know is that we would only accept the validity of a residential qualification as showing a connection with Gibraltar if the residence has been in Gibraltar as opposed to any other dependent territory. If it says here where residence is a material qualification, I would want to know when is residence a material qualification.

HON ATTORNEY-GENERAL:

I am grateful to the Hon Member. This really underlines the point which he himself took that it is important to look at the British Nationality Act. It would not be possible, of course, to reproduce the whole of the relevant provisions of the Act here, it would not be necessary, but it is essential to look at the British Nationality Act and see what these particular provisions are referring to. Can I emphasise one point? These rules are material qualifications but they are not necessarily explicit so that I would not like it to be thought, in fact, Members will see this for themselves, but I would not like it to be thought because this happens to say "residence in a dependent territory is a material qualification", that that means that all you have to do is reside in a territory, because when you look at the context in which that is material there are other qualifications as well and, indeed, I think I am correct in saying that that particular head of obtaining citizenship is a discretionary one anyway but certainly the point is taken that it is necessary to look at Part 2 in particular of the British Nationality Act, and if I may suggest that if one wants to see what the principles are in Britain, then one looks at Part 1, and in fact Part 2 is really a mirror at a more generalised level of the principles in Part 1. Can I mention one other matter because I do not think that the Chief Minister has a brief on this and my days of some slight familiarity on international law have brought back a point to me. The position is that the British Government has deposited a declaration with the Community, what they have done is sent it to the community, I would not like the word "deposited" but as I understand declarations they are unilateral acts anyway and this is the British Government's declaration.

HON P J ISOLA:

If the Attorney-General will give way. I have not heard that declaration. I thought he had mentioned it, the British declaration on EEC Nationality. Unfortunately I was out. Can I know what it is going to be?

HON CHIEF MINISTER:

Perhaps I anticipated the matter. I read what the present declaration is and at one point it looked as if the new declaration had to be negotiated and we were brought into this, but it has now been decided that there is no question of negotiation at all. It is done by the Government whose citizens are affected and what is happening is that the British Government is depositing, presumably on the 1st of January or the day before or whatever it is, a substitute to the declaration which is contained in the Treaty of Accession in respect of the definition of nationality. Therefore Ministers have agreed on the various criteria in England for the depositing of this and I was only interested in the one that affected Gibraltar, and the one that affected Gibraltar

will be, amongst others, in view of persons who are citizens of the United Kingdom and colonies by birth or by registration or naturalisation in Gibraltar or whose father was so born, registered, or naturalised British Dependent Territories citizens would acquire their citizenship from a connection with Gibraltar. It is much wider, it is wider and it helps us to be wider because through this you go into Section 5, and you want to make sure that you get the people who belong to Gibraltar, who are the people who get registration under Section 5. That is the position that I explained before. Does that answer the question?

HON P J ISOLA:

I think the subject has been dealt with very adequately by everybody. The only point I was really interested in was this question of definition of a community national. I am just wondering whether the definition and whether the section will enable people who are at the moment excluded, a small number of people who are excluded from EEC National status because of the fact that they were not born or registered in Gibraltar, that was the only point that I want to know.

MR SPEAKER:

Perhaps you will exercise your right to reply now.

HON CHIEF MINISTER:

That is why we think that this definition is much more helpful. You have the typical case which I always quote of a British Subject, third generation born in Spain, married in Gibraltar to a Spanish woman, registered in Gibraltar as his wife, she is a community national now and he is not. That was because he was having been a third generation British Subject born abroad and registered in a Consulate, of Irish origin, he is not a person who by birth or by registration or naturalisation in Gibraltar, or whose father was so registered, but his wife is because she was registered here. It is rather an anomalous situation that he could not register as a Community National. Equally, the wife or a United Kingdom citizen who married before 1948 because before 1948 you did not have to register, you became automatically a British Subject. The definition that has now been decided upon gives us the right to make that connection a sufficient connection to register as a European Community National so that in that respect it covers the number of anomalies that we knew. That is why I said it was more helpful. To reply to the number of points that have been raised some of which have already been dealt with by my Hon Friend the Attorney-General, I will deal with one or two. First of all, the leaflet to be available here. Yes, that is being prepared because it arose in connection with the question of the registration, how the registration was going to be done and there will be leaflets there and they will try to explain and the people there will help to get the papers that are required very much the same as when you go to the registry of.

Gibraltarians today the man in charge there tells you: "What you need is the birth certificate of your father and the marriage certificate and so on". That will be done but there will also be a leaflet. There are going to be three criteria for the Gibraltarians, for the people here. One is, of course, the Dependent Territories Citizenship and the Section 5 Registration. But that has nothing whatever to do with the Gibraltarian Status Ordinance. The Gibraltarian Status Ordinance remains as it is a domestic matter which is very sensitive. There was an attempt to try to and merge them all, logically, from the point of view of drafting and neatness which I resisted because I think that that to us means something different and I would rather not touch it than lose it by putting it into the bigger context. But that is a different basis. Whatever we do with our Gibraltarian status is different to either British Nationality of Dependent Territories or under Section 5 Registration. We know what it is, it is very difficult to define, we know what it is and we are leaving it like that. The other thing is that the point taken by the Hon Mr Bossano is perfectly right. I have assumed, because of the work that was done on the British Nationality Act, that at least Hon Members had the original Bill which was circulated and to which in the substantive part there have been very few amendments. But, anyhow, I will get as many copies as I can, certainly I will provide one for the Hon Member and two or three if I have available, or I will get them, to the other Members of the Opposition so that they can compare. It is true that it is no use talking about this if they do not know what the backbone of that is. Leaflets that may be issued in England. I will try and see whether we can get those, any that have been made to facilitate people in registering. We will write to the Home Office and I am sure we will get a supply of those for Hon Members. Certainly we will do that. I think, perhaps, I might finish up by saying that the British Nationality Act, 1981, provides all the structure of dependent territories citizenship for dependent territories. In fact, they were the ones who gave the British Citizen of the United Kingdom and Colonies, they were the ones who have taken it away and put something in its place. For us it is much more important for the definition because via that definition we get the Section 5 registration. That is why it is much more necessary and for that it is also more necessary to make sure that the connection with Gibraltar is more clearly defined for specific purposes and not exclusively, that is to say, there may be other criteria that is not in the Bill. The last thing I want to say is that leaving this to the next meeting of the House will of course take us to the new year but the Home Office are quite relaxed about this matter and they do not mind if we do not clear this in this respect and they know that we wanted time and we have been working against time but, anyhow, it is here now and it will be dealt with at the next meeting. That is all, Mr Speaker.

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

HON CHIEF MINISTER:

Mr Speaker, I wish to give notice that the Committee Stage and Third Reading will be taken at a subsequent meeting of this House.

THE TRADE LICENSING (AMENDMENT) (NO 2) ORDINANCE, 1982

HON A J CANEPA:

Mr Speaker, 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:

Mr Speaker, I have the honour to move that the Bill be now read a second time. Sir, we are bringing this Bill to the House following representations on the matter made to Government by the Chamber of Commerce. The main provision in the Bill will require that persons who are importing into Gibraltar in commercial quantities should also hold trade licences in those goods which they are importing. Sir, the Bill defines what commercial quantities are, they are defined as including quantities which are actually imported for commercial purposes and quantities the size of which indicates that they are so imported and therefore in the latter case a person would take himself outside the licensing requirements if he could prove, the onus being naturally on him to do so, that importation is not for commercial purposes, in other words, that it is for personal use. Sir, provision is included in the Bill to allow existing importers three months to apply for licences, this follows previous practice with other amendments that have been made to the Trade Licensing Ordinance, these are the transitional provisions which have been made from time to time and at the same time, Sir, the Bill provides a wider definition of trade to include the importing of goods into Gibraltar in commercial quantities. I do not know, Sir, having regard to what may happen on the 15th of December, or may not happen, whether from that end such a Bill will in fact need to be applied. But it is a Bill of general application, regardless of what happens at the land frontier, it will apply elsewhere, the Chamber of Commerce feel very strongly about the matter and the Government has not had much difficulty in agreeing to legislate accordingly and to meet their representations. Sir, I commend the Bill to the House.

MR SPEAKER:

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

HON G T RESTANO:

Mr Speaker, I think, generally speaking, we agree with the Bill. I think it is obvious that somebody who is trading in a particular item should be able to import that item in commercial quantities. The only query that I have is that in the explanatory memorandum it says the definition of trade is widened to include the importing of goods into Gibraltar. I hope that there can be a correlation between the import licence, the licence to import goods, and the contents of the licence that the trader already holds. For example, if a trader is selling foodstuffs, shall we say, he is not necessarily in a position to import, say, radios or vice versa so I think that in the import licence itself it should go hand in hand with the items which the trader already holds under his trade licence. Other than having an answer to that query we will support the Bill.

HON MAJOR R J PELIZA:

I do not know whether the message was put across. I think it is important that there should be obviously some protection and this is what all this is about so that someone who is denied the right to retail or the right to wholesale suddenly finds a loophole by importing and then perhaps disposing of whatever he is importing in a clandestine way that one cannot really get down to. I think it is really a welcome move on the part of the Government but I think the point that my Hon Friend was trying to make is if it is just a licence to import then I think the object as I said before, is defeated. It must be the right to import a, b, c, d, a definition of the goods that he is going to import so that if there are, as with everything else, too many importers and this is going out of control or for any other reason we do not want any more importers of a particular item in Gibraltar, that can be done. But at the same time I think it is a bit unfair for those who are already trading in certain particular lines that they should almost automatically have a right to import if they wanted to so that if we have a wholesaler but he is not importing radios and televisions then if he asks for a licence I think that should not be denied, in other words, someone who is already trading in Gibraltar whether it is wholesale or retail, I think should have the right to be able to import the goods for which he has already a right to trade on. If that is covered by the law, fine, I am just putting the point across. I think that if that is so, we are happy. I was not sure that this was really covered by the Bill but if that is the view of the Government then that is fine. I think it would be rather unfair on that particular individual who may be retailing or wholesaling finding that an importer will not sell to him and therefore it creates what I think is an unfair situation for those particular traders.

HON CHIEF MINISTER:

I think we ought to remember the origin of this Ordinance and that was the fear that in an open frontier situation, not on the limited nature announced yesterday but in a fully operational frontier where goods would move quickly that you would have people importing goods wholesale without any permission and then finding the situation of having either to licence them or sending them back. The safeguards are there, I think.

HON W T SCOTT:

I have a question that springs to mind and perhaps I might have to declare an interest here. Insofar as the building industry is concerned and particularly with contracts awarded by Government on Government development, the successful contractor where goods are dutiable, normally subject to duty on importation, a condition of the contract is that the importation of these goods are duty exempt on certification by the relevant Government department that at the time of importation those goods are the property of the Government. In those circumstances, would the builder require such a licence because after all he is not importing the goods necessarily, the goods have been imported to the Government and by the Government?

HON J BOSSANO:

My understanding, Mr Speaker, of the wording of the amending legislation is in fact that it extends the definition of the word trade to include importation and, therefore, if my understanding is correct, what I take this to mean is that anybody who today holds a licence to trade in a particular commodity by virtue of the new definition automatically holds a licence to import those goods in which he already has a licence to trade.

HON CHIEF MINISTER:

Which he does not require now.

HON J BOSSANO:

Which he does not require now, that is, that today he is able to do it because anybody can do it. Under the new Ordinance all those who are already in possession of trading licences in particular areas will be able to import automatically as they do today and anybody who is not in possession of a trading licence in that particular area may seek a licence to import exclusively without necessarily having to set up a shop and so on. I think from that point of view it gives the sort of protection of limiting or at least monitoring who is importing without depriving anybody who is legitimately doing it as an extension of his business today from doing so and if that is the case I see nothing to object in that. I am not

sure that it will do anything to prevent exporting from a neighbouring country and I wonder whether that situation, really, is the one that people are afraid of where it is not so much a question of somebody here importing without having a business organisation here but, in fact, some of the stories that I have heard is that there are salesmen already in Gibraltar selling from a base in our neighbouring state without even the frontier being opened and whether that would require a licence under this Ordinance or not I am not entirely sure that this is the case. If that is the sort of situation we want to protect people against I am not sure that we are achieving it with this.

HON ATTORNEY-GENERAL:

Mr Speaker, can I say that it is precisely the case of what the Bill does which is to extend the definition of the word "trade" and the word trade formally would not have covered the act of importing but the intention of the Bill is to make the very act of importing an activity which is a trade and therefore is subject to a licence. Can I just make one other point quite clear and that is that the transitional provisions will apply to anybody who is actually carrying on the importing of particular goods immediately before this comes into force so it will not apply to everybody at large who could now carry it on but for some reason or other they will apply to people who are engaged in the business of importing just before the Bill becomes law and that is the class of people the transitional provisions are directed towards saving, as it were, and carrying through without finding themselves suddenly debarred from an activity which they previously undertook. The other aspect of the transitional provision which is really expanding on what I have said, it is that those people will have no fears about suddenly finding their business curtailed. They will providing they take the administrative step of applying within a certain time for a licence, they will in effect be entitled as of right to a licence to carry on the business they were previously carrying on. I see no difficulty at all to the point raised by the Hon Mr Restano for extending the area of activity in which one needs a licence but administratively a licence could be issued to cover both your activity of actually retailing or disposing of what you brought into Gibraltar and at the same time the activity of importing the thing into Gibraltar itself so one licence administratively could wrap up both, I am sure.

HON J BOSSANO:

If the Hon Member will give way. Isn't this automatic? My understanding of this would be that if we are expanding the definition of trade, then anybody who has today a licence to trade by definition has a licence to import because he is entitled to trade because it says "and also means the importing of any goods", so if trading means selling goods and importing goods, if I have today a licence to trade by definition I have a licence to import.

MR SPEAKER:

If you have a licence to sell by definition you have a licence to import.

HON J BOSSANO:

Yes, and therefore there is no question of having to extend it I would have thought.

HON ATTORNEY-GENERAL:

This is a matter I think I would like to look at overnight, Mr Speaker, but the intention of the transitional provision is that it is directed not towards citizens at large if I may use that expression, but towards the people who are actually carrying on business at the time when the Bill becomes law and I do not mean business in the general sense of trading, I mean the business of importing. It is really intended to focus just on that particular area of activity.

HON J BOSSANO:

I hope the Hon Member will forgive me for interrupting him, I know it is his Bill and not mine, but I do not think this is what he says in his Bill. As I understand it, what the Bill says is that the transitional provisions would apply to the people who are today involved exclusively in importing and who in fact are not licensed because they do not require to be licensed and therefore we have two categories of people, really, as I see it. We have people who are importing and are not licensed because under the present legislation anybody can import anything unless it requires an import licence, but as far as the Trade Licensing Ordinance is concerned there is no requirement to be licensed in order to import so we shall have some people who are importing and to whom the transitional provisions apply. The other category are the people who may not be importing, who today are free to import if they chose to because they do not require a licence, and who will continue to be free to import if they choose to because under the new definition, under the expanded definition of trade, trade includes importing, that is what I understand him to be saying.

HON ATTORNEY-GENERAL:

I will certainly look at it very carefully but the scheme in my mind I would like to say I believe it does cover it but in principle it is the first group which the transitional provision as distinct from the general new licensing requirements is intended to cover but I will look at the point, as I say, to make sure that it is expressed correctly. The only other matter is a matter which I myself from a technical point of view will need to have time to look at and that is the question of the implications of this in relation to Government

contractors who bring goods into Gibraltar. My immediate reaction is that the importer is probably the Government but I would like to make sure of that.

HON A J CANEPA:

Mr Speaker, purely as a layman, the Attorney-General has said he is going to look at that point in rather more detail but not only does that point arise that the importer may in fact be the Government but I wonder, really, whether in the fullest sense of the word it can be said that a builder is importing for trading purposes, he is importing in order to carry out a specific contract for the Government. I do not know but, anyhow, I am only a layman, Sir. The Hon Mr Restano made a point as to whether someone who has a trade licence to trade in certain goods, say, food items, would he be able to import transistor radios. No, I do not think so, he has got a trade licence to import items of food, if he wishes to import transistor radios he has to apply for either a separate trade licence or to have the range of goods for which he holds a trade licence widened. It is a completely new situation which the trade licensing authority would have to consider. The other point I was going to make which I think the Hon Mr Bossano made at the end was that, yes, if someone has a trade licence under the new definition it is implicit that he is able to import those goods other than in the case where an import licence is required under another piece of legislation, for instance, goods in which reserve stocks have to be kept like sugar, for example, and price controlled items. There a specific import licence is required and getting a trade licence would not enable the individual to import because Customs would soon pick it up. That is my reaction, Mr Speaker, save on the point which the Attorney-General will be studying and I am glad to see that the Bill finds general acceptance from Members of 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 give notice that the Committee Stage and Third Reading of the Bill will be taken at a later stage in these proceedings.

This was agreed to.

THE TRAFFIC (AMENDMENT) (NO 2) ORDINANCE, 1982

HON M K FEATHERSTONE:

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 M K FEATHERSTONE:

Sir, I have the honour to move that the Bill be read a second time. Sir, this Bill is concerned to do two things. The first of these is to implement the requirements of a European Community directive intended to enable the recognition of national driving licences in other member states. The directive in question is the first Council directive 80/1263 of December the 4th, 1980, on a Community driving licence. The eventual object, of course, Sir, is to have a Community driving licence but this is something that will possibly come in the future. At the moment it is only necessary to comply with the directive which becomes operative on the 1st January, 1983, to recognise national driving licences. Now, Sir, there are two sides to this matter. In the first place we have to provide where a person who holds a valid Gibraltar licence takes up normal residence in another Community state, for the Gibraltar licence to remain valid for at least one year. He will then be able to use that licence in the State in which he resides for up to 12 months. If within that time he applies for a national driving licence in that other State, he is entitled on the surrender of his Gibraltar licence to be issued with one of that State of the same category of vehicle that the Gibraltar licence he now holds. That means that if somebody holds a valid Gibraltar licence and he goes and takes up residence in, say, France he can drive for one year in France on his Gibraltar licence.

MR SPEAKER:

May I interrupt, because I am very interested in this. What about if he resides in the United Kingdom, is he entitled to a UK licence?

HON M K FEATHERSTONE:

No, it does not apply to the United Kingdom, everywhere except the United Kingdom. But if he goes to France he can drive for one year on his Gibraltar licence but during that year he can surrender his Gibraltar licence to the French authorities and be issued with a French licence. Now, Sir, on the other side of the coin, we have to recognise for one year national driving licences held by persons who take up normal residence in Gibraltar and to issue them corresponding Gibraltar licences if they surrender their national licences during that year. This means that if a Frenchman comes to live in Gibraltar then he may drive on his French licence for one year but in the same way as the Gibraltar licence is going to France during that year he can surrender his French licence and can be given a Gibraltar licence. These arrangements of course, only apply

to vehicles in categories A to E, and they do not apply to learner licences. The other object of the Bill, Sir, is something that I promised, I think, in the last meeting of the House and we have gone a little further as well. It is to sub-divide our existing categories A, C and D into two sub-categories in each section. Category A, I think the Hon Mr Loddo will be happy to know, refers to motor cycles and we are going to have a Category A licence which will cover cycles up to 125cc and an A1 licence for any motor cycle of greater capacity. Category C will at the moment relate simply to motor vehicles for goods transport exceeding 3500 kilogrammes but the sub-division will be C for unarticulated vehicles and C1 for articulated vehicles, that is, those vehicles that have a driving cab and a section at the back. Category D applies at the moment to passenger carrying vehicles to carry more than eight passengers, and this is going to be sub-divided into D for nine to twenty passengers and D1 more than twenty passengers. These measures will come into effect on a date to be appointed and completion of the changes will be by way of regulation. It is intended to provide these with transitional provisions to cover persons who already hold licences in categories A, C and D. It is not intended to limit their already acquired rights under these licences so that they will be able to continue to drive all vehicles within their categories. Sir, I commend the Bill to the House.

MR SPEAKER:

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

HON A T LODDO:

Mr Speaker, I will assure the Hon Mover that Mr Loddo's happiness will be complete if he takes note of one or two points that I will be making and amends this Bill accordingly. I have on several occasions asked questions in this House on motor cycles and my concern here has been twofold. One, of course, is that I was concerned that because there was only one category of motor cycles anybody could take a test on a small powered machine and yet be allowed to drive a high powered vehicle. That was one concern. But then there is also another concern and that is that under this proposed legislation there is nothing to stop a 17 year old from going to a dealer and buying a 1000cc motor cycle and learning to drive. All it means is that he can now drive a big motor cycle. My contention is that anyone who wishes to drive a motor cycle should not be allowed to learn on anything higher than a 125cc and when he obtains his licence on that particular vehicle, he should for one year be made to drive or be allowed to drive nothing of a higher power than a 125cc. After a year's provisional licence, if you like, then he can go on to a higher powered engine because I have had the experience of seeing a young chap with a 1000cc motor cycle stop in Main Street and not be able to hold the bike upright,

the bike tipped over, he jumped out of the way, and then it took three men to put the bicycle back on an even keel. So that is one thing I would like to see. I would like to see that the young of today learn to respect the highway, learn to respect the power of the machine that they have got and I am sure that it will make them better drivers. One year is nothing in a lifetime but it could mean a lot if it means that you are going to live a lifetime and not have your lifetime cut short at the age of 18. Another thing that I would like to see is provision made for holders of B licences, people who have been driving motor-cars and are qualified drivers and are competent drivers of motor-cars, to be able to drive a moped under 50cc capacity without the need to have to take any tests whatsoever because these vehicles, and I have one, cannot develop more than 30 miles an hour. I can assure this House that I have been overtaken by a chap on a bicycle and I do not think that anybody who has a competent driving licence, who has road sense, who already has passed a competent test in driving should be made to take an examination for what is virtually a glorified bicycle. If the Minister would take note of these things and by the time we come to Committee Stage he will find it possible to amend it, or insert his amendment, I can assure the House that Mr Loddó will be deliriously happy. Thank you, Mr Speaker.

HON MAJOR R J PELIZA:

I think I should say that there is a lot of sense in what my Hon Friend on the left has said today and I hope the Minister will take note of that. The question I was going to ask really is that he said that the provision of these licences being exchanged for an EEC licence, the Gibraltar licence exchanged for an EEC licence, did not apply to the United Kingdom. What happens to a United Kingdom citizen who comes to Gibraltar, what are the requirements, how long can he use that licence, what is the position in that respect?

HON P J ISOLA:

Mr Speaker, I would like to support the remarks of my Hon Friend Mr Loddó, which I think show abundant good sense because the person who is learning to drive in a motor-car is required by law to have a chap sitting next to him who is an experienced driver. A young man who is learning to drive a motor cycle, all he has to do is put the "L" plate on, and away he goes with a helmet. Different countries approach these problems differently but I understand that the position that my Hon Friend is describing is what happens in England and that is you get a licence under 125cc, and you are not qualified to hold a licence on a motor cycle above 125cc until you have held a driving licence for a year and that to me, Mr Speaker, makes a lot of sense because in that way the chap who is going to apply for a 125cc and above licence is going to have behind him a year's experience and it terrifies me to see the "L" plate on one of these huge powerful motor cycles with a young man on the road and only the other day, when my Hon

Friend arrived from England, there was a motor cycle accident in Winston Churchill Avenue and the ambulance came along and picked up the pieces. I think it is a real problem and I think if the legislation can be changed to conform with the English legislation, I do not know whether I am right in saying it is that, but certainly if we could have especially now that the frontier is to open for pedestrians only, but supposing there is a full opening, can this House imagine what is going to happen. I know we are going to learn by experience, a few young people are going to lose their lives, that I think is going to happen, but if we could at least say that a young man, a 17 year old, cannot get on the back of a motor cycle that is above 125cc, we would be doing something towards helping in that direction. If he wants a bigger motor cycle let him have it after he has had one year with his licence driving in Gibraltar or elsewhere and certainly I would fully agree with what my Hon Friend has said and it is because of that, Mr Speaker, that we would not like the Committee Stage to be taken in this meeting of the House, we would like it to go to the next meeting so that the appropriate draft amendments can be either put forward by the Government or proposed by us. I think it is going to be a bit complicated amending it in this way but I am sure that the House will agree with us that it makes eminent good sense that we would take a step forward in trying to prevent more accidents than there are already with motor cycles and young people.

HON ATTORNEY-GENERAL:

Sir, may I make a particular point. As the Bill is drafted, the legal effect of this is that a person who comes here holding a UK driving licence would be able to take advantage of the provisions at this end whereby he can use that for a year and then in due course within that year trade in, as it were, his UK licence. He could take advantage of it.

HON MAJOR R J PELIZA:

He said trading in. Does this mean that he cannot retain the UK licence because it would be difficult for him to regain it again when he goes back because he cannot exchange the Gibraltar licence for a UK licence.

HON ATTORNEY-GENERAL:

The Community directive is silent on this point.

HON MAJOR R J PELIZA:

It is quite a problem, isn't it, for the UK one.

HON ATTORNEY-GENERAL:

But the point I was trying to make was that a UK licence can be used throughout the year. I suppose a short answer would be that he would take advantage of it for a year and I suppose also, I am really thinking as I go, it must be rather obvious, but I suppose also that once he has been in a place for more than a year there is an assumption that he is actually going to settle in that place for a period of time and therefore he should be prepared to take up the licence of the place he is going to. Leaving aside the particular situation of the UK, going back the other way, if we can take another country as an example, of course the converse applies that he gets the Gibraltar licence then he goes back the other way again he can get a UK licence.

HON MAJOR R J PELIZA:

Not a UK licence.

MR SPEAKER:

We are talking on the general principles of the Bill now and at the Committee Stage you may be able to interrupt.

HON ATTORNEY-GENERAL:

Can I say as a matter of principle, it is really as I see it designed to facilitate residential movement around the Community and dealing with the general situation, one could come from Denmark to Gibraltar, use the Danish licence for a year, then get a Gibraltar licence, then if he changes his mind he goes back to live in Denmark and the reverse process works but to answer the particular point, in the case of the UK, we have a provision which UK citizens could take advantage of, we happen to know that the reciprocal situation as yet has not been settled for Gibraltar in the UK.

HON MAJOR R J PELIZA:

I think the problem is this as I see it. It is straightforward with any of the other EEC countries, where literally if you surrender, say, the Danish driving licence, when you go back to Denmark all you have to do is trade in your Gibraltar licence for a Danish licence, it is just straightforward, isn't it? But if you happen to be living in Britain and you have to surrender your UK licence and then you go back there, you cannot get a UK licence unless you go through the whole procedure all over again and sometimes, believe me, in England it takes months before you can get a driving licence.

MR SPEAKER:

With respect, we are getting into detail and I will not have it. When we get to the Committee Stage that is the time to discuss this sort of matter. We are now talking about the general principles and we are bobbing up and down when we should not.

HON ATTORNEY-GENERAL:

The only point that I wanted to make by way of clarification was that the Clause, as drafted, does apply to people who come from the UK in the same way as it applies to other communities, and that we happen to know that at this stage the reciprocal case has not been established.

HON A T LODDO:

On a point of clarification, Mr Speaker, a person coming from the UK with an English driving licence is entitled, obviously, to use his licence in Gibraltar for one year but now that person who holds a valid B licence in England is allowed in England to drive a moped, would the same apply to him here?

MR SPEAKER:

With due respect, we are getting into matters of detail which I am not prepared to allow at this stage. When we get to the Committee Stage we can discuss these details but now now.

HON M K FEATHERSTONE:

I have noted the points that have been raised by the Hon Mr. Loddó. The situation with the United Kingdom is of course a little bit complicated. This Bill is basically to give effect to a Community agreement between different members of the Community and, of course, as far as UK is concerned in the Community we are part of the UK. That is why it is not exactly working conversely with the UK but we are approaching the UK authorities to see if they will accept the exchange of our licences. The question of Mr Loddó being deliriously happy, I hope to make him relatively happy, if not delirious. The regulations that will be promulgated obviously will envisage that you must have the lower licence before you can apply for the higher licence. This will mean that you cannot get an A1 licence until you have had an A licence. You cannot get a C1 unless you have got a C, you cannot get a D1 unless you have got a D, so you will have to start with the lower licence and move in into the higher licence. I am not quite sure whether the restriction of one year would be acceptable, it might be the possibility of making it six months, I do accept that there are instances where a 17 year old cannot control a bike but you do get big 17 year olds and you do get small 19 year olds, so a big bike with a small 19 year old is just as bad as perhaps a big bike with a big 17 year old.

With regard to the B licence, allowing them to drive a moped, I do not think this is acceptable. We do have it represented to us by the traffic authorities that the driving of a car and the driving of a moped may have some similarity in road sense but as far as the mechanical operation it is considerably different and they feel that they cannot automatically allow a moped to be driven just because you hold a B licence. This is more so because we have got the regulation here that you cannot, as in other countries, drive a moped up to 50cc with no licence whatsoever. Apart from that, I think we go along entirely with the Hon Mr Loddo's wishes and therefore I do 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 M K FEATHERSTONE:

Sir, I beg to move that the Committee Stage and Third Reading should be taken at a later stage in this meeting.

HON P J ISOLA:

We think that as a rule Committee Stage should not really be taken at the same meeting unless it is very urgent and there is no objection. It seems to me that there may be other people who want to make representation, we have only had this Bill ourselves a week ago. I accept what the Minister has said, I am not sure whether he is right or whether what we want can be done by regulation. We would like to check that out ourselves.

MR SPEAKER:

Well, I am sure that the Minister will take your comments into account and we will now recess until tomorrow morning at 10.30.

The House recessed at 7.35 pm.

THURSDAY THE 9TH DECEMBER, 1982

The House resumed at 10.45 am.

MR SPEAKER:

I understand that the Chief Minister wishes to make a statement.

HON CHIEF MINISTER:

Yesterday, in connection with Question No. 351, which the Hon the Leader of the Opposition asked whether the problem had been resolved between the Chamber and GBC which was I think the main purpose. Then I said that as far as Airtime International are concerned GBC have formally revoked the agreement but the matter continues to be the subject of correspondence. That reply, Mr Speaker, was actually cleared with the Chairman of the GBC in order to get information. In the course of the supplementary which was really not connected with that the Hon Mr Haynes asked whether it was a fact that my Chambers had been - I do not know what the word used was - retained by Airtime or something like that and I said no. I have since found out that during one of my partners visits to London, he was approached by a firm of solicitors about this question. Had I known that yesterday I would have disclosed it to the House, whether it is an interest or not, I would certainly not have said no. Since I found out since then that that was the case when I said it I truly believed that to be the case, now I want to say that as far as whatever result may come and whatever action I may take in respect of the situation, I would like to clear that what has happened is that an approach was made by a firm of solicitors and not by Airtime International who deal mainly with my partner, to say whether he would take an interest in this matter.

MR SPEAKER:

I would also like to take this opportunity to say that the Hon and Learned Mr Haynes has given notice that he wishes to raise a matter with reference to Question No. 312 on the Adjournment. He gave me notice yesterday afternoon before 5.00 pm.

THE GROUP PRACTICE MEDICAL SCHEME (AMENDMENT) ORDINANCE, 1982

HON J B PEREZ:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Group Practice Medical Scheme Ordinance (No 14 of 1973) be read a first time.

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

SECOND READING

HON J B PEREZ:

Sir, I have the honour to move that the Bill be read a second time. Mr Speaker, the purpose of this Bill before the House is twofold. First, it is proposed to increase the contributions payable by members of the Group Practice Medical Scheme with effect from the third day of January, 1983. Secondly, it is being proposed to introduce a new category of contributor.

Insofar as the contributions are concerned, Mr Speaker, it is proposed that the contributions payable in respect of employed persons should be increased from 39p per week to 45p for the employer and similarly for the employee, an increase of 6p per week. On an annual basis this represents an increase for the employer and for the employee from £20.28 per annum to £23.40 per annum. May I say, Mr Speaker, that there is a misprint in the actual Bill itself and I will move an amendment at the Committee Stage. In section 2 the figure should read "in which case he shall pay an annual fee of" it should be "£23.40" and not "£25.40" because the contributions payable by voluntary contributors will be increased now by an extra 9p per week making a total payment of 70p a week, an annual increase from £31.72 per annum to £36.40. Again these increases will come into effect on the week commencing 3rd of January, 1983. Mr Speaker, I shall now deal with the second purpose of this Bill. It will be recalled that when the House last considered an increase in contribution in December of 1980 which was the last time we increased the contributions, the question of the possible hardship which could be suffered by the lower income groups as a result of further increases was raised and I gave an undertaking at the time that I would bear this in mind when the rates of contribution were next to be revised. This has been done and I feel from my experience as Minister for three years in having to deal with applications for exemptions, that there is a particular need to include a further category of contributors who should pay a lower contribution. This category will comprise that group of persons or families not being in employment whose income is above the rate of the old age pension for a single person but below the rate for a married couple. As Members of the House are aware, the rates of pension from January, 1983, is £36.70 for a single person and £55 a week for a married couple. This, Mr Speaker, will give a certain amount of leeway and will enable my department to give a measure of relief to those persons who at present unfortunately fall outside the scope of Regulation 6(a) of the GPMS Regulations which in fact provides for the remittance of the payment, the annual contribution at the Minister's discretion and who are currently required to pay the full amount of the contributions payable by voluntary contributors. Voluntary contributors, to take an example, like myself, who is self employed, I am a voluntary contributor and therefore due to Regulation 6(a) certain people who are not employed, not in employment, let us take the example of a widow who, say, was at the rate of £36.70 in January of next year by way of pension but she had a smaller pension apart from this, the position was that if that amount of money was only £1 or £2 extra a week, the department could remit the full amount payable by that particular individual. But where you have a situation where the pension was, say, £5 more than the level of the old age pension, the department could not, in full fairness, exercise a discretion to remit and tell that person she did not have to make a contribution and therefore that Mrs X was paying 61p a week which was exactly the same that I was paying and I felt that that was unjust. With the proposed new category we are definitely doing away with that particular unfairness

as I have experienced it in the last three years. The contribution payable now by these persons in this particular category shall be the same as the employed persons contribution of 45p a week but let me assure Members of the House that the discretionary provisions of 6(a) still apply today so persons who are in fact in receipt of just the old age pension, who are in receipt, say, of £36.70 or who would be in receipt of £55, and if they have other income of a small amount, those persons would still not be required even today with the new category have to pay any contribution at all. All these persons, Mr Speaker, who consider that they fall within this new category should make an application for inclusion in this category by calling at the Health Centre where their enquiries will be dealt with. Mr Speaker, as mentioned previously, the Government has taken this step in order to afford a measure of relief to those persons who may at present be suffering hardship but keeping within Government stated policy that any relief in the payment of contributions should be linked with the income of contributors and not with pay. Mr Speaker, I commend the Bill to the House.

MR SPEAKER:

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

HON G T RESTANO:

Yes, Mr Speaker, we cannot go along with this Bill, Mr Speaker, on two grounds. First of all, we believe that contributors are not getting a very fair deal insofar as seeing consultants at the hospital is concerned. We have raised the matter before in this House that persons who are to see consultants under the GPMS are treated as second class patients. First class patients are those who go and see consultants on a private basis and we feel this is wrong, we feel this is wrong because the doctors are employed by the Government for the patients of Gibraltar and the practice of seeing private patients and giving preferential treatment to private patients is a wrong concept and we cannot agree with that. I know that the Minister in October denied that this happened but I know very well that he denied it in this Chamber but then agreed with me outside this Chamber that the practice was carried out. So therefore on those grounds we feel that we cannot go along with these increases. Secondly, we feel that pensioners generally speaking, as a whole should be given free treatment and should not be asked to contribute. Most pensioners would have contributed all their lives in income tax, in social security contributions, and we feel that when the time comes at 65 for them to retire and be pensioned off, they should be given recognition for their years of service and at the time when they most need the services of doctors that that service should be given free. Mr Speaker, we shall be opposing this Bill.

MR SPEAKER:

Are there any other contributors to the debate?

HON W T SCOTT:

Mr Speaker, I think the Hon Member opposite finished his contribution by saying "linked with income and not with age". I find this a little bit remarkable because it is an inconsistency because, for example, contributions, weekly or monthly contributions, are certainly not linked with income and here we are now on an established practice Government bringing a new practice of linking income with age but only for people in receipt of pensions. Surely, as with pensions, and it is a good system, I think, the most effective system certainly that I know in the sense of an insurance or a pension scheme, where the contributors today pay for the contributors of yesteryears and I think in fact there is an equivalence between the pension contributors today, weekly or monthly, and in fact people who subscribe and pay for the Group Practice Medical Scheme. In fact, Government itself has already done this with pensions irrespective of other income because it does have an old age pension which is tax free to everybody irrespective of the income that they have and this is an illogical step, I feel, and certainly one of total inconsistency.

MR SPEAKER:

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

HON J B PEREZ:

Mr Speaker, I must confess I am rather disappointed by the contributions of Members opposite. I was expecting them to have contributed more fully to the new category which is being introduced in the House which in fact was discussed in the last meeting in December of 1980 when I brought a similar Bill for an increase in the contributions and as I say I am very disappointed that at least they have not had the decency or the courtesy to at least give some credit to the Government for doing something which they promised to do when the matter was last discussed in the House. I will deal first of all with the points raised by the Hon Mr Scott. I think there is really very little that one can reply because the Government's position is very clear, this has been put forward to this House on many occasions, we are not of the opinion, as far as the GPMS is concerned, that when you reach the age of 65 you should not pay anything, we think that is absolutely wrong. What we say is, and this is where we bring in the question of income, that when a person who is not employed and if his earnings, if his sole income is the level of the old age pension, the full level, either £55 or £36.70, what we are saying is that that person should not pay. But what we feel is wrong is that for persons who apart

from old age pension of £55 a week have substantial income that they should also get this scot-free, we feel that this is wrong. But let me remind Members opposite that Regulation 6(a) allows the department to have discretion in cases of hardship so as I have already said in my original speech on this Bill, persons who may have a small income apart from the old age pension, they do not have to pay anything, that is what I mean when I say that the Government's policy is one on income and not on age. As far as the two points which the Hon Mr Restano has raised, the first one being that he feels that he has to vote against this proposal, let me remind him that he is also voting against the new category of contributors. Now he can do that I cannot understand, Mr Speaker. It was never said by the Opposition that it does not go far enough and this is why I say, Mr Speaker, that I have been very disappointed with the contributions of the DPBG.

HON W T SCOTT:

If the Hon Member will give way.

HON J B PEREZ:

No, I am not going to give way because I think that if they wanted to say something they should have said it before and not now. As far as not getting a fair deal because of the consultants, I think, Mr Speaker, that this is an extremely poor excuse by Mr Restano. I think what has happened is that, he has said: "Oh, well, we cannot vote in favour of this and we have to think up some excuse". I am sure that this excuse has been thought of some five minutes before coming into the House this morning. On the question of consultants I have said on many occasions in this House, Mr Speaker, that in general I am not aware that people are not getting a fair deal and that is the honest truth, Mr Speaker, I am not aware. There have been cases which have been brought to my notice and I remember one which was brought to my notice by the Hon Mr Loddo and I agreed with him that in that particular case it was checked, it was investigated and he was right. Let me also say, Mr Speaker, on this question of consultants, that unless the people come forward and tell me or refer the matter to the Director of Medical and Health Services, there is no way in which we can investigate the matter. I have offered the opportunity, in particular to Mr Restano, on numerous occasions in this House if he hears of cases come to his knowledge in which a person who has been referred by a doctor in the GPMS has been treated as he tells me, as a second class patient, for God's sake bring it to my notice and we will look at it. But no cases have been brought to my notice and even members of the public, in fact, in the last year perhaps three cases have been referred to me and they have been investigated but that is all so I can never admit in the House that persons who are referred by GPMS doctors are treated as second class because the reality is that I am not aware that this is done. Let me tell the House as well,

Mr Speaker, that with the new Director, I asked him to look at certain aspects of our system and this is one of the aspects that I have asked him to look at. I told him about the complaints that I had had, three or four in the year, and of the questions that have been raised in the House and this is a matter which he has undertaken to look at very carefully. But as I say if people are not prepared to come forward and make a complaint then, Mr Speaker, there is no way in which the matter can be investigated. But let me again reiterate my views and that is that as a whole I do not accept, I cannot accept that persons referred by GPMS doctors are considered as second class. The position of consultants in private practice is very, very clear, I have answered questions on many occasions, they are entitled to private practice provided their gross income at the end of the year of private practice does not exceed 10% of their gross salary. Not only that, consultants are required under their conditions of employment, to submit annual accounts to the administrator of the hospital, so the procedure is there. If it is being abused, I am not aware of it, and I would again reiterate my offer, if you have cases, if Members of the House have cases, please bring it to my notice and we shall look at them. But it is no good crying out in the House every time we meet and then the matter is not being followed up, that is wrong. I think the other point that Mr Restano raised was again the question of pensioners which I think that I have already dealt with, Mr Speaker, in answer to the point that was raised by the Hon Mr Scott. Mr Speaker, 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 I Abecasis
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 Zammit
The Hon D Hull
The Hon E G Montado

The following Hon Members voted against:

The Hon J Bossano
The Hon A J Haynes
The Hon P J Isola
The Hon A T Loddio
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 A J Canepa

The Bill was read a second time.

HON J B PEREZ:

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.

HON M K FEATHERSTONE:

Mr Speaker, may I make a short statement on the Committee Stage of the Traffic Ordinance. Yesterday, the Opposition intimated that they would like the Committee Stage and Third Reading left to another meeting of the House although I did say that it was going to be taken today. The Chief Minister spoke to me about it and asked me whether I would be able to leave it to a later meeting but I do feel that it should be taken today because the FCO is very anxious that they can give an answer to the European Community that Britain, and of course Gibraltar which forms part of the British element in the European Community should accede to this by the 1st January and they would not like to have to say that Gibraltar had not yet agreed to it. I would ask, therefore, that the Committee Stage should be taken today but with your leave, Sir, if the Opposition wish it, I would be happy to leave the Committee Stage to the last item to be dealt with. I would, at this stage, make the point that I undertake in the regulations that we make regarding the different categories to safeguard the situation that a learner's licence for a senior category cannot be obtained until the junior licence has been passed and in the case of motorcycles, that applications will not be permitted until the junior licence has been held for one year. I am also willing to look into the question, not at this stage but for another amending Bill, to see if we can accommodate the idea of the Opposition that mopeds should be permissible for people who have a category C. I think that that should go a long way to meeting the objections of the Opposition.

MR SPEAKER:

May I have the views of the Leader of the Opposition on this?

HON P J ISOLA:

Mr Speaker, having regard to the assurances that the Minister has given, we would be content then to deal with it.

MR SPEAKER:

May I ask then, in the light of the assurances that have been given by the Minister, is it really necessary to take it at the end of the meeting or can we take it in its proper order?

HON P J ISOLA:

Yes, we will not propose any amendments in view of what the Minister has said.

THE PUBLIC SERVICE COMMISSION (AMENDMENT) ORDINANCE, 1982

HON ATTORNEY-GENERAL:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Public Service Commission Ordinance (Chapter 132) 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.

HON ATTORNEY-GENERAL:

Sir, I have the honour to move that the Bill be read a second time. The Public Service Commission is established under the Constitution and under Section 74 of the Constitution the Governor, after consulting the Public Service Commission, may make regulations dealing with its procedure. The Governor, after such consultation is in fact proceeding to make such regulations which are now in draft and they will deal with such matters such as quorum, setting up of boards and other machinery matters designed to facilitate the carrying out of these Commission's duties. It also happens, and this is the reason for this Bill, Mr Speaker, that there is a Public Service Commission Ordinance which deals with some substantive matters that also deals with procedural matters and this Bill is really simply, if you like, a restatement exercise. There seems to be no point in having some procedural matters in regulations which the Constitution itself contemplated and other procedural matters in an Ordinance, it would only be confusing the people to have to look to more than one place to find out where the procedures are laid down. What the Bill is doing is taking out from the Public Service Commission Ordinance as such the matters which are procedural and which will be repeated in the new regulations which will be published simultaneously. There are, however, as I intimated, certain matters in the Ordinance which are of a more substantial nature, for example, there are certain offences created by the Ordinance relating to the influencing of the Committee. There are provisions dealing with the prohibition of the disclosure of information acquired in the course of serving or working on the Commission, and it is my view that those provisions are not appropriately ones which can be made simply by regulations, they require the force either of the Constitution itself directly which does not touch on these matters, or an Ordinance of the House and so what will be left in the Public Service Commission Ordinance will be those weightier provisions. As I say, it is an exercise that restates the law in a more convenient form. I commend the Bill to the House.

MR SPEAKER:

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

HON P J ISOLA:

Yes, Mr Speaker, I think this Bill provides us with an opportunity to discuss the issue of the Public Service Commission Ordinance and the principles behind it. I notice that in a previous legislature there were substantial amendments, and deletions to the Public Service Commission Ordinance which I think an Ordinance with 21 Sections and 2 Schedules after this Bill is passed, I think we will be left with about 4 Sections and no Schedules. We are not against that but the only point that I would like to bring up is that I am not very happy with the question of privilege that the Commission has. The question of privilege, I notice that in the previous principal Ordinance, privilege is given in the old Section 15 and the new one I think has been amended in order to enable privilege to extend to the Boards that are set up by the Public Service Commission. The power of appointment is really vested in the Crown. It is the Governor who acts on the advice of the Public Service Commission and in those circumstances it seems to me that the Crown in any proceedings that may take place should rely on Crown privilege. I think there has been a whole series of decisions on this in the Courts and I think that if a Minister of the Crown or in this case it would be the Attorney-General, claims privilege for any particular document, the Court would have to be convinced quite a lot before forcing the Crown to disclose a document. I think there are decisions on this, it happened with the Secretary of State for Education in different proceedings in England and at the end of the day it has been left to the Court itself to decide whether a claim for Crown privilege should be upheld or not. I believe that that should be the situation with the Public Service Commission or rather with any legal proceedings which will not be aimed at the Public Service Commission, I would imagine, it would involve the Crown, or the Governor. I say this because after all, at the end of the day the Public Service Commission is dealing with the rights of individuals, with appointments of people in the public service and if, and I cannot imagine the circumstances when there would be a case, and if there should be a case before the Court which after all may well involve a person's livelihood, a person's career, a person's good name, I think the right to bring all matters that are relevant to the proceedings before the Court should be there, subject to Crown privilege. He should not have to rely on whether the Deputy Governor decides that it can be released or not, specially if the Deputy Governor himself could be involved in the situation, which he might not be, but it would seem to me when we are talking of fundamental rights, which is what this Constitution seeks to protect, do not get me wrong, I am not against all communications of the Public Service Commission being privileged and all being secret and confidential and,

in fact I was going to say that perhaps the penalty now for letting any information out of the Public Service Commission which is only \$160 should, in fact, possibly be put up to \$500 because it would be a serious matter. Having said that, I think that in a case where an individual's livelihood is concerned before the Court, it should be left to the Court to decide whether to uphold the claim of Crown privilege or not and it should not be an administrative matter which I understand, I may be wrong, I think that is the position in England. If the Crown claims privilege it is jolly difficult for an order to be made forcing the Crown to disclose. The Court would have to be very satisfied on the matter that it is essential in the interests of justice that the document should be disclosed. But it is left in the last analysis to the Court and I think that once we are dealing with this particular problem, although I would entirely uphold the confidentiality of the Public Service Commission proceedings, I think that at the end of the day if there are legal proceedings and as I say I can imagine very few occurring, but if there are any and the disclosure of documents is essential for the administration of justice involving as it may well do the right of an individual to his livelihood, to his career or to his good name, that the final decision as to whether there should be disclosure or not should be judged with under the normal rules of Crown privilege which are tilted in favour of the Crown anyway. I mean, a Court does not force the Crown to disclose a confidential document unless it considers it to be absolutely vital in the interests of justice. I would like now that the actual issue is before the House, I think that we should put that one right.

HON CHIEF MINISTER:

Before he sits down, because I want to reply to one or two points, the Leader of the Opposition might say how he would envisage that what he wants would be done.

HON P J ISOLA:

As I see it, subject to correction, Section 9 of the Bill would be the Principal Ordinance, is further amended by repealing Section 15, fullstop. And then ordinary Crown privilege would apply to any proceedings because it is the privilege of the Governor because it is the Governor, it is the Crown that makes the appointment, the Public Service Commission is only a statutory advisory body.

MR SPEAKER:

May I be clear in my mind but isn't the privilege granted not by the Ordinance but by the Constitution.

HON P J ISOLA:

The question of confidentiality is in the Ordinance not in the Constitution. But the Constitution by saying that the appointments are Crown appointments automatically gives the Crown privilege, the normal rules that appertain to Crown privilege.

HON CHIEF MINISTER:

Is the Hon Member saying that the proposed new Clause 9 should be deleted?

HON P J ISOLA:

I am saying that Section 9 should be passed by deleting everything after Section 15 because there is already this statement in a different way in the existing Ordinance.

HON CHIEF MINISTER:

Mr Speaker, subject to the legal advice of the Attorney-General, whose baby this is, this is purely a constitutional matter and this is not a question of Government policy, it is a matter of advice, I would like to say one or two things on what the Hon Leader of the Opposition has said, purely as a lawyer and not as a matter of statement of public policy on which I would have to leave the matter to the Attorney-General who is the legal adviser to the Government. I do not know that I entirely agree with what the Leader of the Opposition has said about the question of Crown privilege being upheld if it is on the basis of the traditional concept of Crown privilege. Apart from statements made that the appointments are made by the Crown in that they are made by the Governor representing the Crown, my understanding of recent decisions are that the Courts have been more and more concerned as to the eating into the concept of the Crown privilege unless it is specifically stated. I think that there are quite a number of decisions recently in which some Ministers have been compelled to produce documents because the question of privilege was not sufficiently clearly established. If that has to be argued I would rather be quite clear on my legal ground in arguing the question of the confidentiality of the dealings of the Public Service Commission which is an advisory body and who must be protected from outside pressures and from also having to justify through any legal proceedings any decision or advice given. I think that it is essential particularly in a small place and if the independence of the Public Service Commission itself is to be maintained beyond any doubt, any question that might arise that might shake the inviolability of the advice given has to be looked at very carefully. That is my own personal view in the matter. For that reason I think that if there was, and this is substituting another section, if there was an element of protection in another way and we are trying to assimilate the Ordinance as much as possible to run parallel with the

provisions in the Constitution and that is considered by the Attorney-General as being a necessity to safeguard the situation, then I do not see how we can agree to withdraw it. On the particular point made about the fact that the Deputy Governor is allowed to authorise that and would be directly concerned, first of all, it does not arise because the appointment of the Deputy Governor is not made by the Public Service Commission but is made by the Secretary of State. The Public Service Commission to my knowledge do not look at applicants for the job of Deputy Governor.

MR SPEAKER:

They are prohibited by the Constitution.

HON CHIEF MINISTER:

I am grateful to you, Sir, for reminding me of that but I am certainly sure that they would not sit in judgement as to who ought to be the Deputy Governor to whom they would be giving advice, it would be an odd situation, anyhow.

HON P J ISOLA:

When I said the Deputy Governor might himself be involved, I am not saying that he might be involved as a party in the proceedings but that he is himself involved in the whole process as head of the Civil Service.

HON CHIEF MINISTER:

I accept that. He is the Head of the Administration in that he has to advise finally the Governor on the recommendations of the Public Service Commission, I accept that. That, in my view, makes it the more necessary that he be given precisely some element of discretion in order, in the public interest, that certain things that ought to be said should be said and to take protection under the overall Crown privilege would rather inhibit his willingness to release information that might well be in the public interest to release and I can imagine that some of the important things that can be released I often say that whilst you are under confidentiality and you cannot release something, unless a negative statement gives an idea of something having happened, certainly one is under no obligation not to say that something has not happened and therefore it is important that the Deputy Governor should be able in certain circumstances to indicate that perhaps an allegation that has been made against preferences or against unfair dealings and so on, to be able to say no and to be able to have that latitude statutorily. But as I say this is purely my own view, we don't take a political view on this matter, it is purely in answer to the point made by the Leader of the Opposition. On this matter I must necessarily be guided by the Attorney-General who has brought this up himself in the course of his duties in looking up matters in

the Constitution and it is not the first time that we have found certain practices being carried out as a result of statutory ordinances which in fact are provided for by the Constitution and we have come to this House to say that these things are dealt with by the Constitution, that is the mother of everything and there is no reason to duplicate by legislating for it.

HON J BOSSANO:

Mr Speaker, I take it that this Bill dealing with the Public Service Commission Ordinance is in fact a matter other than a defined domestic matter as provided for in Section 34 of the Constitution and that the references of the Chief Minister to say that he was expressing a personal view rather than a matter of Government policy is in that context.

HON CHIEF MINISTER:

It is because of that, I am not concerned at all about that. I speak here freely whether it is defined or non-defined. I was purely speaking as a lawyer in response to matters mentioned by the other side. If we have to take a political decision collectively, subject to the provision if it is a non-defined domestic matter, to it being cleared by Gibraltar Council, then I would take whatever view I thought proper and if I did not agree I would say so. I am not inhibited by that at all, I was purely speaking for myself because in respect of any strictly legal matter, unless it has a political connotation which annoys me or upsets me, or does not comply with the way I think I ought to do it, I have to leave it to the Attorney-General.

HON J BOSSANO:

Well, perhaps if I tell the Hon Member what is the political connotation that annoys me, I can persuade him to take a different stand on the matter:

MR SPEAKER:

The sole prerogative of appointing the Public Service Commission is vested in the Governor and it is an advisory body to advise the Government exclusively. Whether it is a non-defined domestic matter or not is irrelevant to the extent that it is the Governor's prerogative to appoint the Commission and to tell them what they can or cannot do.

HON J BOSSANO:

I know what you mean but I am not really thinking of the mechanics of how the Commission works. It is a point I raised when we were discussing the Immigration Control Ordinance because Immigration Control is clearly stated to be a matter for which Her Majesty's Government is responsible

and not the elected Government of Gibraltar and what I am trying to establish is whether this particular piece of legislation, since the Constitution under Section 34 provides two sets of machinery, really, and it says that where a matter is other than a defined domestic matter, then in fact the Governor has got to either introduce it over our heads, as it were, if he fails to get the support of the Ministers, or introduce it normally because it has the support of the Ministers. Therefore, it seems to me from my point of view, I want to know when we are dealing with a piece of legislation that seems to be in that grey area on which side of the fence it fits because it requires a political decision, I would have thought, as to whether one supports it or one does not support it.

HON CHIEF MINISTER:

I think the answer to that is that any piece of legislation which is not a defined domestic matter, which is a non-defined domestic matter, is tacitly agreed as being the policy of the whole of the Government, both the elected Government and the Governor, by clearing matters in Gibraltar Council so that insofar as the Bill is concerned the fact that it has gone to Gibraltar Council and has been approved in Gibraltar Council, that is really the placet of the Governor to say this will proceed but there is no restrictions on debate or anything, it is only a way of indicating that we are free to discuss, or rather we are free to deal with this matter ourselves and there has been no case in my experience where that has not been the case and if we have said "No", that there has been, certainly not since 1955, any indication, certainly not since 1972 from my experience, any indication that it will go anyhow.

MR SPEAKER:

May I perhaps intervene here and say that I most certainly received a communication from the Hon and Learned the Attorney-General in respect of this Bill and in respect of the Immigration Control (Amendment) Bill, 1982, which reads: "I am directed by His Excellency the Governor to signify his consent under Section 35(2) of the Constitution to the House of Assembly proceeding upon the following Bills, the said Bills in his opinion, acting in his discretion, relating to matters that are non-defined domestic matters". This referred to the Immigration Control (Amendment) Bill, 1982, and the Public Service Commission (Amendment) Bill, 1982, so in the opinion of the Governor this is a non-defined domestic matter.

HON CHIEF MINISTER:

Yes, but I must make it clear, Mr Speaker, that that looks terribly official and terribly colonialistic, if I may say so. That is in order to comply with the strict letter of the Constitution. No such formal decision has been taken other than the matter has been taken in the course of the business of Gibraltar Council and it has been agreed and therefore in order, and that of course is the green light to the Attorney-General to be able to say that that comes within the parameters of that, but let there be no question of the Governor sitting in judgement of whether he decides or not, he decides on the advice of the Gibraltar Council and I have never seen any attempt in Gibraltar Council in respect of legislation which is of general interest, the elected Members of Gibraltar Council in which incidentally there is a majority, being overruled.

HON MAJOR R J PELIZA:

I was just going to say that that was my experience in the 2½ years that I was Chief Minister.

HON J BOSSANO:

What I wanted to establish really, Mr Speaker, is what you have so kindly cleared up for me, that these two Bills are, in fact, the sort of Bills to which Sections 34 and 35 of the Constitution refer.

MR SPEAKER:

There is a difference between Section 35A and 35B. The right to decide whether a matter is a non-defined domestic matter or not is exclusively that of the Governor. The decision as to whether a matter is a revenue raising matter is the discretion of the person sitting as Speaker of the House of Assembly. I am just saying this by way of explaining the constitutional position.

HON J BOSSANO:

I am opposed to the Bill following that clarification because in fact, if this is an area which notwithstanding the fact that the machinery is one of consultation with Ministers, we are going to effectively take out the control to the extent that it exists of the House of Assembly and replace it by legislation by regulation, then it deprives Members on this side of the House from an opportunity of saying whether they agree or disagree with what is being dealt with by regulation and in fact of voting against it like we can when it is a piece of legislation. I prefer that we should retain the opportunity that we have today of debating even a matter which is not a defined domestic matter like we can under the

Public Service Commission Ordinance. It seems to me that other than possibly for the purpose of setting up the Public Service Commission, there is really no reason for retaining anything else if the argument is accepted that under the provision of the Constitution everything can be adequately catered for by regulation. Let me say that the last time we amended the Public Service Commission Ordinance I voted against some of the provisions because I thought that the way the definition of public office was being altered in the Ordinance effectively extended it beyond what most people would understand public officers under the control or subject to discipline, promotion and recruitment by the Public Service Commission to mean and although that has never been tested I think that if it is ever put to the test we shall have an opportunity to see whether the arguments that I put at the time were in fact correct. I was unable to persuade the Attorney-General at the time of the logic of the argument I was pursuing and the thing was altered. I argued then that by defining in the Ordinance public office as being employment under the Crown by reference to the Constitution, it effectively meant that everybody in the public sector automatically could be said to be covered by the provisions of the Public Service Commission Ordinance which in fact is not the way it works in practice, it was never intended to work like that in practice, and I do not think anybody has tested it but I think if it were tested it would be very difficult to stop the whole machinery of the Public Service Commission being jammed with all sorts of appeals and so on which are intended for the Civil Service and not for the entire public sector. That, to me, is something on which for example although my arguments failed, at least they are on record and the opportunity to debate it here was available whereas with Regulations all that happens is that the Regulations are made available, we have sight of them, but we do not vote on them in the House and we do not debate them in the House in the same way as we do the Ordinances. Therefore, I am opposed to these matters being taken out of the Ordinance and being substituted for by perhaps similar provisions but made by Regulation. On the specific matter that the Hon Attorney-General is providing for in Clause 9 which he says he feels should still be retained in the Ordinance, which the Hon and Learned Leader of the Opposition has raised some objections to, I have got objections, too, of a different nature. I do not think that there a public officer, for example, should be deprived of disclosing information or correspondence that has taken place between him and the Commission if he has to seek advice or help or he wants to challenge something. If a public officer has got a grievance and he wants to seek the advice of his Association or Trade Union or of a lawyer, I do not see how he can seek that advice without disclosing what has gone on between him and the Public Service Commission. I certainly do not think that as far as the list of people who may not disclose any communication is concerned, the fact that it includes a public officer could be, I do not know if that is the intention, but as far as I am concerned on the strict reading of the letter of the law as it is there, could be used to prevent somebody from airing a grievance that

he has by disclosing the nature of correspondence between himself and the Commission or Promotion Board or anything else and therefore on that count I have got a specific objection to that Clause.

HON ATTORNEY-GENERAL:

Can I just clarify the last point. Was it his concern that people who had had dealings with the Commission were precluded from disclosing to other people the outcome of those dealings as distinct from people who are either on or are servants of the Commission?

HON J BOSSANO:

The regulation of the behaviour of the people who compose the Commission is a matter for the Governor, really, since he is responsible for appointing the Commission to advise him, but I think when you have got correspondence between an individual officer and the Commission, then I think that individual officer should be free to disclose his part of the correspondence, what affects him, to somebody else because he may need to do that in order to obtain advice if he feels he is not getting fair treatment. I am not suggesting that that is the intention, what worries me is that that might be a possible interpretation put on it once the legislation is passed and that somebody could then find that in fact they are acting in contravention of the Ordinance simply by going to somebody, very much like the question of being in breach of the commitment of the Official Secrets Act. I am not suggesting that people should have the right to make things public or anything like that but disclosure, technically, I do not know what it means but presumably it means, just going to a third party and therefore I am not happy with that point.

HON ATTORNEY-GENERAL:

Mr Speaker, I must confess I originally saw this Bill as a rather technical drafting exercise but if I say so the debate has raised, I think, some very interesting points. Can I say at once, taking up from the last point, that if the Government is agreeable, I think there is a point to be looked at. That reproduces in the clearest style, in what I think is the clearest style, an existing provision in the law. I am not aware of any great pressure to necessarily have this measure passed now and it is a point I would rather like the opportunity to look at myself because I think that some precision is necessary.

HON CHIEF MINISTER:

I do not like these things to be taken quickly if there are points to be studied either by the Opposition or by the Attorney-General himself.

HON ATTORNEY-GENERAL:

It may be that as a matter of policy in the end it is worthwhile to keep that but I would like the opportunity to reflect on it and look at it myself. Still on the same provision, on the point whether or not it could be deleted and replaced by Crown privilege, I myself think that is a very major point. I take the point made by the Hon and Learned Leader of the Opposition. I would myself need before I could advise on it, to consider the present scope of Crown privilege, the standing of a body which is a statutory body, which advises the Governor and it is not the Governor himself, it may be that there are ramifications for Crown privilege there and there may be some need to have a special statutory system of privilege. I think it raises very far reaching matters and I would like the opportunity to consider that. The other points which I would like to speak about is the question of whether or not the House would be conceding something that has already been established if the matters which the Bill proposes to omit from the main Ordinance were omitted and transferred into the regulations. Can I simply stress that the regulations under the Constitution, and the Constitution already confers that power to make regulations, are limited to procedural matters and perhaps I can give an idea of the sort of matters that I mean by procedural matters, matters such as the appointment of a Secretary, the appointment of other officers to assist the Commission, I do not mean members of the Commission, the ability to delegate matters to a Board without foregoing responsibility, of course, with the decisions, and the taking of oaths when a person is admitted as a member of the Commission or a member of a Board of the Commission. It is totally in the procedural realm and, indeed, the relevant section in the Constitution, Section 74, makes that quite clear and so if Members do not see anything as being given away I would make two points. The first point is that the Constitution already enables regulations to be made dealing with procedure and all that will be going across into the regulations would be procedural matters and that is why the weightier matters such as Section 15 which obviously is a weighty matter and more than a matter of simple procedure, to stay in the Ordinance. All I would say on that is that I think, really, that nothing of any substance is being given away and I have to reiterate that the scheme which already exists enables procedural regulations to be made under the Constitution. But, overall, Mr Speaker, I dare say I found that these points are very thought provoking and I myself would prefer to see this Bill not to go through Committee until the next meeting of the House. Sir, I was forgetting I was replying, and 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 ATTORNEY-GENERAL:

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

MR SPEAKER:

I understand that the Hon and Learned Attorney-General has a statement to make on the next Bill, is that correct?

HON ATTORNEY-GENERAL:

Yes, there is a Bill on the Agenda, Mr Speaker, the Pensions (House of Assembly) (Amendment) Ordinance, 1982. I regret that there are still matters to be resolved in discussion between the Financial Secretary and myself and it has not been possible to have it ready so I would ask leave to withdraw it from the Agenda.

THE SUPPLEMENTARY APPROPRIATION (1982/83) (NO 3) ORDINANCE, 1982

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

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

SECOND READING

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that the Bill be read a second time. The Bill seeks to appropriate, in accordance with Section 65(3) of the Constitution, a further sum of £475,185 out of the Consolidated Fund. The purposes for which this sum is required are set out in Part 1 of the Schedule and detailed in the Consolidated Fund Schedule of Supplementary Estimates (No 3) 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 £103,000 from the Improvement and Development Fund as set out in Schedule No 2 of 1982/83 and Part 2 of the Schedule. I would draw attention to a number of items. Firstly, the appropriation of funds to meet an increase of around 35% in the cost of imported water effective from April this year. Secondly, the need to carry out essential repairs following storm damage to the sheeting in the water catchments. Funds are also required to construct

a retaining wall in the same area. Lastly, and in a more general context, I should mention that following a review by the Secretariat of its financial commitments to the end of the financial year, additional funds are required across a range of sub-heads. Mr Speaker, I commend the Bill to the House.

MR SPEAKER:

Before I put the question to the House does any Hon 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 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.

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: the Companies (Amendment) Bill, 1982; the Education (Amendment) Bill, 1982; the Trade Licensing (Amendment) (No 2) Bill, 1982; the Group Practice Medical Scheme (Amendment) Bill, 1982, and the Supplementary Appropriation (1982/83) Bill, 1982.

MR SPEAKER:

I understand that the Hon the Attorney-General has got amendments. I would be most grateful if these amendments, if they are available, should be made available to us not at the last moment as is being done now because as I have said many times in fairness to the Chair one has to accept and agree to the amendments and we are not given much time to consider whether the amendments are acceptable or not. Not that they are not going to be but if they are available there is no reason why we shouldn't have them at the proper time.

HON ATTORNEY-GENERAL:

Mr Speaker, Sir, I do apologise. In the Companies (Amendment) Bill there are amendments and they are substantive. There are very minor amendments on one or two other Bills but in this case they should have been presented to you earlier.

MR SPEAKER:

The First and Second Reading of the Companies (Amendment) Ordinance was taken at the previous meeting so there has been plenty of time for the amendments to have been circulated. However, I am just making a comment for the future.

THE COMPANIES (AMENDMENT) BILL, 1982

Clause 1

HON ATTORNEY-GENERAL:

Sir, I beg to move the following amendment in Clause 1, sub-clause (2): To omit "November, 1982" and to substitute "January, 1983".

Mr Speaker put the question in the terms of the Hon 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 and 3 were agreed to and stood part of the Bill.

Clause 4

HON ATTORNEY-GENERAL:

Sir, I beg to move in Clause 4, that it be amended by inserting after the words "amended by" in the first line, the word "repealing". This is a word that seems to have been dropped, it is purely a clerical error. Sir, I beg to move that Clause 4 be further amended by inserting in the Eighth Schedule in item 1(a) after the words "status of a company" the words ", that is to say, the fact of its being public or private or limited or unlimited". Sir, Hon Members will, I think, recall that when this Bill was introduced and read a second time a query was raised that the expression "change of status of a company" could be ambiguous, could lack clarity. This point has been considered and we feel that it ought to be defined so that there is no argument as to what it means and the purpose of the amendment I have just proposed, Sir, is to achieve this end. I move accordingly.

MR SPEAKER:

Perhaps since you are amending Clause 4 and you are amending the Schedule which forms part of Clause 4, you have other amendments, too, so I think we can take them all together because it is an amendment to the same Clause.

HON ATTORNEY-GENERAL:

I also beg to move, Sir, that Clause 4 be further amended in the Eighth Schedule in item 1(d) by omitting the expression "£10.00" and substituting the expression "£5.00". Speaking to this amendment, Sir, this is the item which prescribes the fee for lodging an annual term for a company and the proposal is to reduce it from the initial fee of £10.00 which we have in mind to half that amount, ie, to the fee of £5.00. And, finally, Sir, I beg to move that Clause 4 be further amended in the Eighth Schedule in item 1(f) by omitting the expression "£20.00" and substituting the expression "£2.00". This is the item which relates to the provision of a certified copy of a certificate and it should have been £2.00 at the outset, £20.00 was an oversight, Sir, I move accordingly.

Mr Speaker proposed the question in the terms of the Hon the Attorney-General's amendments.

HON P J ISOLA:

Mr Chairman, we have comments to make actually on most of the charges. The first one I am just a bit worried about. It says if you submit a change in the status of a company, that is to say, the fact that it has been public or private or limited or unlimited, you pay £25 and yet if there is incorporation registration or submission of any change in status of a company except from public limited to private limited or from limited to unlimited, if the state of the company is just the fact of being public or private or limited or unlimited, if you say a submission of any change in status, that is to say, public or private or limited or unlimited and then you put in brackets, "except from public limited to private or from limited to unlimited", is that not contradicting the change of status for which you have a charge of £25?

HON ATTORNEY-GENERAL:

I am not quite sure that I take the point that the Hon and Learned the Leader of the Opposition is making. As I see it, the amendment has this effect. The paragraph that is being amended has two propositions, the general one is that you pay a £25 fee for a change in status of the company and the issue is what we mean by a change of status. What is in brackets is a specific group of changes in status which the Bill provides for separately under 1(b) but the words I have inserted are really intended simply to clarify at the outset what we mean when we are talking about a change of status. A change of the status of being public or private or limited or unlimited.

HON P J ISOLA:

So if a public company becomes a private company it pays £25?

HON ATTORNEY-GENERAL:

That is the intention, Sir.

HON P J ISOLA:

Anyway, the other point I would like to say is that I notice the Eighth Schedule, item 1(f), was I think a misprint, certified copy of any paper we pay £2. The registration of a change of name to £20 and the search fee which to our way of thinking seems to be a little high, change of name £20 so be it, but the search fee is the one I think I would wish to propose that it be reduced to 50p. The reason I say that, Mr Chairman, is that there are a number of people who are regularly searching companies, not just one, it can be ten, it could be twenty, banks and lots of people, and I think it is unduly high. I think putting a search fee of £1 is a bit of a deterrent, let me put it that way, to people searching companies and it seems to me high for people who are asked to search companies. In other words, if a company search is being made by a firm of lawyers it is usually because somebody wants to know something about it outside Gibraltar, £1 does not matter but there is a body of people, laymen, accountants who are regularly making searches of companies in the ordinary course of business. It seems to me £1 is quite high in those circumstances. I do not know what the income from search is but I think to go from 5p to £1 is a big change, 5p was low, obviously, 5p was very low but to go from 5p to £1, I think £1 is very high for that particular item because, as I said, a lot of searches are made, a lot of individuals make searches and I think to put it up to £1 is almost a deterrent for people to search and I would move that that particular item be reduced to 50p, that the Hon and Learned Attorney-General's amendment be further amended by reducing the search fee from £1 to 50p. That is on that one. On the registration of a change of name, Mr Chairman, it seems to me there are different kinds of registration for a change of name. One is when a chap buys a company and then changes its name to an entirely new name and I suppose £20 then is fair enough. But there are people who have a name and they just change the name by putting Gibraltar in brackets or something like that, who pay the full fees for incorporation and shortly after incorporation they find they have got it wrong, and they should have put Gibraltar between brackets and they ask to change it, it seems to me a £20 fee there, considering the process is a very simple one, the charging of £20 seems to be very high. I am not going to move an amendment but I think it should be considered because I think that is high, but on the search fee is where I want to amend. I do not want to amend anything else. On the search fee, I think £1 is unduly high as such.

HON CHIEF MINISTER:

Mr Chairman, when these proposals were, in fact, before they were published as a Bill, as a result of an undertaking I gave to what is called the Finance Centre Group, which is a body of professional accountants, lawyers and so on who have been advising the Financial and Development Secretary in aspects of the Finance Centre part of the economy, they did raise the question of the fact that the logic of an annual return was too high at £10 and they suggested £5 and we agreed to that and that is why it has been reduced. The question of a certified copy, this is purely I think a printing error, we never intended it to be £20, we are not reducing it to £2, we are putting in what we intended. We have received no representations with regard to the search fee. That is a matter of judgement, really, and it has to have some relation to the amount of work that is involved by the people in the office of the Registrar of Companies who are well paid people, who have to go into the company's records, produce the particular company and attend on people and then provide people to get the information. This is exactly the same as a search fee is in the United Kingdom, £1. The search fee is £1 in the United Kingdom and that is why we have put it at £1. Normally, when the Leader of the Opposition spoke about lawyers being alright, well, as far as accountants are concerned they must be alright, they put it on to their expenses and I do not see why we should charge less than it is costing in the United Kingdom to make the search and I regret to say that I see no good reason except the question of opinion but as in fact the charges in England is £1 and some of the other charges here are being tailor made to the practice in England, except that in some cases it is a bit cheaper but in this case the amount is too small that I regret I cannot see my way to agreeing to this suggestion.

HON ATTORNEY-GENERAL:

In the case of a change of name, there is evidently quite a lot of work involved which is the reason for the higher fee.

HON CHIEF MINISTER:

There is a lot of work involved in the change of name.

HON P J ISOLA:

Well, I think that there is a lot of work involved in the change of name because we have an absolutely absurd procedure for it. If you want to change the name of a company, you ring up the Registrar of Companies and you ask if the name is available, a week later you are told that it is available and having been told it is available you then have to write to the Governor to get his consent to the change of a name. That is quite absurd because you do not have to write to the Governor to ask for a name for a company, you ask the Registrar. You write to the Governor and then the latter

goes round to the different departments in the Secretariat who are worried about somebody changing his name and then they write to the Supreme Court to enquire whether the name is available, the Registrar of Companies then writes back saying it is available having already told the people concerned and then three weeks later you get a letter from the Secretariat saying the Governor gives his consent to the change of name. Of course it is complicated, because the procedure is utterly absurd. In the United Kingdom the Registrar of Companies is the one who gives the consent.

HON CHIEF MINISTER:

You have to get, I think, the permission of the Board of Trade.

HON P J ISOLA:

No, no, the Registrar of Companies, it is in the Companies Act. It is the Registrar of Companies because he is the one who agrees it. That is why the procedure is absurd. For anybody to try and say that it is costly, of course it is costly. I was told once when I applied that the previous Deputy Governor insisted in actually signing the letter himself, authorising himself the change of name. Given the salary of the Deputy Governor, of course, they will be charging £50 for a change of name but the only man who is concerned with a change of name is the Registrar of Companies who has to ensure that it is not a name that is deceptive, is this, is the other and all the rest of it.

HON CHIEF MINISTER:

Whilst the thing is like that we shall leave it there but I am certainly prepared to look at that aspect of the matter and even though it may well be necessary, for some reason or other, the Registrar could be delegated by the Governor to do it at the same time as he does the change of name. I will look at that. I am quite happy to look at that.

HON P J ISOLA:

Mr Chairman, that is why I say £20 is too high because all that is involved in a change of name is a resolution of the company changing the name which is fine. That is all that is involved. Mr Chairman, on the search fee, I think I would like to move an amendment.

MR SPEAKER:

Let us deal first with the Hon the Attorney-General's amendments and you can then move another amendment, too.

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

MR SPEAKER:

Mr Isola, you wish to move?

HON P J ISOLA:

I beg to move that Clause 4 be further amended by the deletion in the Eighth Schedule, Item 1(e) Search fee of the figure of "£1" and the substitution of the figures "50p".

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

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

The following Hon Members voted against:

The Hon I Abecassis
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 Zammit
The Hon D Hull
The Hon E G Montado

The following Hon Member was absent from the Chamber:

The Hon A J Canepa

The amendment was accordingly defeated.

Clause 4, as amended, stood part of the Bill.

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

THE EDUCATION (AMENDMENT) BILL, 1982

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

Clause 2

HON A T LODDO:

Mr Chairman, on Clause 2(c) "such other requirements as may be prescribed". Mr Chairman, I have become aware of some of the requirements that will be required and we do not feel that these requirements in the case of the nursery schools or play groups are really necessary. For example, one of the requirements will be that there be one wash-hand basin per 15 children. These children are from the ages of 18 months to 4 years and children of that age are not able to wash their hands on their own properly. If we do not have this requirement for schools where children are 11, 12, 13 years old, I do not see it reasonable to expect nursery schools and play groups to provide wash-hand basins when the children themselves will not be able to wash their own hands. Similarly, we will be asking for toilets, one for 15. Again, when we are talking of children of 18 months, these children are too small to make use of a toilet. They have to use the conventional potty and I would think it is unreasonable to expect nurseries to provide rows of toilets which in fact will not be used because the children are too small to make use of them. Again some of the requirements are for quiet study areas. Mr Chairman, we are talking of 18 month old children. Quiet study areas would be reasonable in schools of higher education but for nursery schools and play groups to insist on quiet study areas, I think, is bordering on the absurd. Mr Chairman, there is another point that has been brought to our notice and that is that Government will be insisting on the division of these children into two age groups, from 18 months to 2½ years and from 2½ to 4½. At this very early stage I think it is quite unnecessary to split up these children into two age groups considering that in most cases these are not nursery schools in the recognised term but play groups. We will be voting against it.

MR SPEAKER:

Against the Clause itself?

HON A T LODDO:

Against the Clause.

HON P J ISOLA:

Mr Chairman, I would like to support my Hon Friend in what he has said and I would particularly like to take up the last point he made under which by a regulation of the Director of Education, nursery schools are being sub-divided into age groups. The system of education is being changed not by this House but by a directive of the Director of Education. It seems to me wrong in principle. Under the Education Ordinance education is compulsory from a particular age. Under that age,

it was known as nursery education and to make by regulation an educational change of such magnitude to me seems to be wrong in principle. I know some nurseries which comprise just one large room. To say now that you must have a separate room for a study area or to have a separate room for different age groups, is to put people running nursery businesses or nursery education centres for very modest fees, and I think all Members agree on that, put them out of business. This is a matter that should not be done by the Director of Education. It is a matter that should be done by the House on a statement of policy from the Minister which the House can or cannot approve but to do it in this way is quite unacceptable, certainly to my Party, and I would hope that it is also unacceptable to the Government side. I would ask the Government possibly to postpone this Committee Stage reading of the Bill to another meeting of the House and to allow the House to have a look at what exactly is going to happen.

MR SPEAKER:

Have the requirements that the Hon Mr Loddó has mentioned been published?

HON P J ISOLA:

No, my Hon Friend was in fact given the proposed regulations and the proposed letter that the Director was going to send or has sent to various nurseries and that is how my friend got it, he was shown one. I would ask the Minister to consider this because it does seem to me that it requires further thought and we would not like to give these sweeping powers as a result of this amendment.

HON ATTORNEY-GENERAL:

Sir, I am not sure in what way the Hon and Learned Leader of the Opposition sees this as being a departure from principle. Could he say what the proposals that he is referring to in the Regulations that he sees as being different from the principles laid down in the Ordinance? It seems to me to be a self-governing matter because, clearly, Regulations which do depart from the principle would be ultra vires and therefore the constraints are laid down by the Ordinance itself but I am not clear what he means by saying that it is in conflict with the Ordinance.

HON P J ISOLA:

The only point that I am making on this particular point is that under the Education Ordinance it sets out compulsory education. Then under the age of 5, I think 5 is the compulsory age although a lot of people can go if they are 5 during the year, they can go into school, I am not sure what the position is now. Under that it is nursery education.

That is a matter of private education. What I am saying goes outside the principles of the Ordinance and I would have thought outside the policy of education, generally, that by regulation the Director is going to tell a nursery school: "You are now going to sub-divide your children in your school into two groups". In other words, the person who takes in children at nursery stage, as toddlers as my friend has mentioned, and God forbid that we should start dividing them up. Enough educational damage is done, according to educationalists, with these constant divisions of children in different groups, that a matter as great as dividing them into groups in nursery schools should be done without any statement of policy on the matter from anybody but just by a regulation which says: "Such other requirement as may be prescribed". We object to that and we would ask that the Government defer consideration of this Bill until we have a statement of policy of how it is going to be done and we can possibly debate it or discuss it in the House.

HON ATTORNEY-GENERAL:

The Hon and Learned Member is therefore maintaining that there is a principle in the Ordinance which says that you cannot have a school which has both primary pupils and nursery pupils.

HON P J ISOLA:

But it doesn't have any primary, primary education starts when you join the Government school at the age of five or four, that is when it starts, before that it is nursery education.

HON ATTORNEY-GENERAL:

If there is a principle in the Education Ordinance, Mr Chairman, that you cannot have nursery pupils and older pupils in the same building or the same premises, then obviously regulations could not derogate from that but as I understand the proposals, the regulations are not saying that. I am not satisfied at all that there is any such principle. What the regulations are trying to do, I think, is to say that they recognise the fact that there are places where you have both nursery pupils and older pupils and to say that in those cases part of the premises will be treated as a nursery school.

HON P J ISOLA:

All nurseries have the full age range prior to going to school. Very few kiddies are sent at eighteen months to school, it is an exception. I would have thought that a nursery establishment would not be viable if you have got to divide the eighteen months to 2½ years from the 2½ years to 4.

HON A T LODDO:

Mr Chairman, if I may clarify. What has happened is that the nursery or play group teacher has been informed that the nursery play group will be registered, one of the conditions is that only one specified age group may be taken for, eighteen months to 2½ years or 2½ years to 4½ years. This, to me, seems a bit ridiculous. Why are you trying to divide these children within a play group area? It seems absurd to have to have two types of play group when what we are talking about are children between the ages of eighteen months and 4½ years.

HON MAJOR R J PELIZA:

Mr Chairman, I wonder if the Minister could explain if he has really looked at this matter thoroughly and if he has investigated to what extent it will affect the existing nurseries, whether a number of them will have to close if the regulations are implemented, whether the cost of taking the children there will increase, what will be the effect, not purely on the educational side, the effect on the parents who rely on this nursery to be able to take their children, to be able to work or be able to release the mother from the work at home which before, perhaps, they could do with servants and now they cannot, they have got to take them to the nursery. If he has studied all this through perhaps he could tell us whether he has made enquiries from the nurseries as to how many of them can comply with this without putting up the fee, without having to close down or is this being done off the cuff? I would like the Minister to say whether he has really made a survey on this matter.

HON CHIEF MINISTER:

I do not recall, Mr Chairman, whether the Hon and Gallant Member was here when this matter was discussed last time but it was certainly no question of off the cuff, it was an indication that a thorough investigation had been made and people were being given time. My understanding of the situation purely, not being concerned directly on the matter, was at the most, first of all, to keep up minimum standards particularly of toilets and so on. I think the most that could happen in most cases are that they might have to reduce the number of children in a play group because the provisions were not adequate for the number of children provided. I do not think that that should be an impediment, in fact, it should be welcomed to some extent because the standard of the children will be better. These are purely play groups and nurseries which are of great use for the children to get used to being with other children and to the parents in having them parked in the mornings. With regard to the other matter about the division, I am sorry I was out on other business and I do not know why the point about the division of the children into ages was raised, is that because there is enabling power in the Bill on the question of the division of ages?

MR SPEAKER:

What the Opposition is objecting to is the fact that this is going to be done by regulation and the sole arbiter is the Director of Education and not the House.

HON CHIEF MINISTER:

I have the draft print of the regulations here and there is no division of any ages within the groups of nurseries.

HON A T LODDO:

If the Hon Member will give way. I have in fact with me a copy of the letter to one of the nurseries where they are told specifically: "Registration as Nursery Playing Groups. Note that your nursery play group will be registered conditional on the following - Item 3: One specified age group to be catered for only, eg eighteen months to 2½ years or 2½ years to 4½ years". In this case this is adding further burden to this nursery school or play group because by limiting them to a certain age group it means that they have to further come down on the numbers that they can take even if, for example, they are allowed, because of the size of the premises, to take 30 children, by asking them to limit it to one age group it would be bringing it down to 15, for example, in which case they would have to double their fee and the whole thing is counter-productive.

HON CHIEF MINISTER:

What is the date of that letter?

HON A T LODDO:

The date of that letter, Sir, is 28th October, 1982.

HON CHIEF MINISTER:

On the strength of the rules that I have seen here and subject to the concurrence of my Minister for Education, there will be until otherwise decided and discussed here, no difference in age groups for the time being.

HON MAJOR R J DELLIPIANI:

Mr Chairman, all I am seeking for at this present moment is the enabling powers to carry on with the Bill. We have consulted all the nurseries concerned and we gave them till the 30th November to submit their views on the regulations as we wanted them to be presented. We have just managed to collate the views of all the nurseries that have replied, we have written to the Attorney-General, all I am asking is for enabling powers and I will bring the regulations and it will

be consulted in the House. All I am asking is the enabling powers to carry on with the regulations because I already have information from the nurseries as to the objections that they have raised and may I say they have not been very substantive, they have been very minimal and I have the evidence in writing. I have also received oral representations from the Hon Member, Mr Bossano, which we have also tried to collate for the regulations and all I am asking is for the enabling powers and I am assuring Members opposite that I will not force these regulations onto people until all the evidence has been presented and I will bring it to the House.

MR SPEAKER:

As far as the House is concerned you will lay them on the table, I imagine.

HON MAJOR F J DELLIPIANI:

That is right. All I want is the enabling powers to carry on with the regulations.

HON CHIEF MINISTER:

There is a slight difference there, Sir, because regulations which are laid in the House are already made and they may be discussed but in this case, exceptionally, perhaps having regard to the procedure, the draft regulations will be sent to the Member opposite whose shadow is Education for him to make any remarks he likes.

HON J BOSSANO:

I am against the regulations. I thought I had, in fact, gone to great lengths in dealing with the general principles of the Bill, to persuade Members that we were talking completely at cross purposes in this House on this piece of legislation. It seems that I failed to do that because all the arguments that have been going on today disregards in its entirety all the points I made on the general principles in the Second Reading and therefore, if you will give me your leave, in opposing this section I would like perhaps to make reference to the principal Ordinance to show that I think I am correct in my understanding of the situation and that in fact it is totally meaningless, everything that has been said up till now in this House is totally meaningless, Mr Chairman. This amendment moved by the Attorney-General I think should be opposed on a very specific point. Here we have a situation where under Section 31, Part V of the Ordinance, we talk about independent schools and it says already in what is already there which is I think what we should be looking at if we are amending something. What is it that we are amending? We are amending a piece of legislation that says: "The school premises shall be suitable for a school". Therefore all these play groups are out on the first section, they

are not suitable for schools. "(2) They shall be adequate and suitable having regard to the number, ages and sex of the pupils to be accommodated therein". Irrespective of the assurance sought by the Members of the Opposition and given by the Hon and Learned Chief Minister, that assurance cannot be done without contravening the Ordinance. There is a requirement to lay down the sex and ages of the pupils in schools, which is what we are talking about, which is the Ordinance we are amending. "Efficient and suitable instruction shall be provided in the schools. Every person engaged in teaching shall be of a suitable character, educational qualifications and training". All these people are disqualified by all those definitions so we are now adding a clause where in addition to (a), (b), (c), (d), (e) and (f) none of which is being complied with, any other requirement may be introduced and those other requirements, by the way, Mr Chairman, are in addition to the 52 requirements already existing under Section 82(1) of the Ordinance. So we have got 5 requirements which have been totally ignored today, 52 requirements which are equally being ignored today and we are now seeking permissive powers to add any other requirements which presumably people are going to be asked to comply with. It is total nonsense, the whole amending Ordinance is nonsense, Mr Chairman, and the whole debate has been nonsense because we have been discussing here how one should in fact introduce a measure of control over play groups which are private enterprise where the main responsibility lies with the parent who sends the child there, to ensure that certain minimum standards are required. That is already in existence under the rules made by the department that gives total discretion to the department to interpret what is the minimum standard because the existing rules say: "Washing and sanitary accommodation for children in every nursery school and nursery class. There shall be provided sufficient and suitable washing and sanitary accommodation". Therefore, with the powers they have got today, without any change of legislation, they can come along and say: "We want one toilet for 15 or one toilet for 5 or one toilet for 20". In fact, the only thing that the proposed regulation does is that in interpreting what is suitable they cannot ask for one toilet for 14 they have to say one for 15, that is the only thing we are doing and in talking about matters of principle there is absolute discretion already in the system of operation and there is, in my submission, an incorrect use of Part 5 of the Education Ordinance for a totally unrelated purpose and by virtue of the fact that it is a totally unrelated purpose none of the requirements are being complied with. I really think what we are talking about here which has nothing to do with what has been said so far is where in addition to the 52 requirements plus the 5 requirements under Section 31, there should be any other requirements which must stretch the imagination of the Director of Education to its absolute limit given all the things he has already legislated, any other requirements that they may introduce in controlling private schools to provide for independent education which I am opposed to in principle, my party is opposed to in principle and which we objected to in the principle of the

Bill and we are objecting to it here because we think that education is the responsibility of the state and we think that the child minding and child caring function of private nurseries is a matter for the parents and the person running the nurseries although we accept that it is desirable that things like fire standards and that certain minimum standards can be laid down as guidelines and that the people concerned in fact with whom I have had a number of meetings and who have asked me to make representations on their behalf to the Government are not adverse to that but they are certainly adverse to being considered independent schools and that is certainly unacceptable to the Government teachers and it is certainly unacceptable to the people who are employed in Government nursery schools because they are two different things. The Hon Mr Loddo told some of these ladies who went to see him that I was against private nurseries and I think if he said that he obviously did not understand the argument, I do not know whether he was being correctly reported.

HON A T LODDO:

If the Hon Member will give way. What I told these ladies was that the Hon Member was in favour of state-run nurseries because the Hon Member made the point that it has been proved that educationally children who go to nurseries have an advantage over those who do not and that because the working class parent could not afford to send his children to a nursery the children of better-off parents who could go to nurseries would therefore have an unfair advantage over the others and that the Hon Member felt that if nursery education was taken over by the State it would be the ideal solution, not the other way round.

HON J BOSSANO:

Mr Chairman, obviously I am still failing to get across the point that I am talking about nursery schools, nursery education, where there is an educational input, and nurseries for eighteen months old. I am not suggesting that the State education system should start at the cradle, that is not what I am suggesting. What I am saying is that if you are going to have pre-school education, an entry nursery unit in a school, then I do not see where people are going to be educated, I do not see how you can say if your parents are working the State will educate you free of charge, if your parents are not working then you have to be privately educated, and that is the situation. The child-minding function provided for the children of working parents was precisely to release married women from work, it has nothing to do with education. The educational function which I support which is the nursery education system, would not start at eighteen months, it would be a question of what is being done now which I support, which is having in primary schools what is known as nursery units where in fact the educational input is coordinated with what the children are going to be taught when they start in their first year and there is an enormous advantage and I think that

should be applied to everybody. That does not mean that below that there should be nothing or that the Government nursery education system should start as soon as the child utters his first words and therefore I can only insist, Mr Chairman, that we are debating in this House something which has got nothing at all to do with the Ordinance before the House which seeks to amend an existing Ordinance which by definition is being totally flouted if we are saying that all these conditions plus the new ones apply to private child-minding nurseries which do not provide education, which do not employ qualified teachers and which therefore are in contravention already of the provisions of Section 31 and therefore I suggest the best thing the Government can do with its Ordinance is not to delay it but to withdraw it.

HON ATTORNEY-GENERAL:

Mr Chairman, we may have talked to other points this morning through some misunderstanding, I agree, but I entirely disagree with the greatest respect to the Hon Mr Bossano, that what is being done here is purposeless or unnecessary. Part 5 of the Education Ordinance deals with independent schools and Part 5 says that you cannot have such a school unless you get approval to establish it and then it spells out conditions on which the Director of Education may not grant approval unless he is satisfied with the things and it spells out the things and there are six of them. The whole purpose of this Bill is to say that there are further things that he has to be satisfied about before he can grant approval for a school and those further things are not things that he makes up himself, they are things which are laid down by regulations made by the Governor because the word prescribed does not mean prescribed by the Director of Education it means prescribed by regulations and coming to Section 83 that is not exclusively something that has got nothing to do with private schools, that is in the general part of the Ordinance as a general regulation making power that if the Hon Member cares to look, the last sub-paragraph in regulation 1 says: "Prescribing anything which is by this Ordinance required or authorised to be prescribed". The whole point of adding a paragraph to regulation 31(3) is to link up so that in addition to the qualifications that are actually set out in the Ordinance, we can make regulations adding further qualifications and that is why I was confused this morning because I do not see how this can conflict in any way with the Ordinance itself, it is something we are doing pursuant to the Ordinance but obviously every relevant qualification cannot be spelt out in detail in the Ordinance, that is why we have regulations.

HON J BOSSANO:

Could the Hon Member give me a specific answer to a specific question and then perhaps it will prove my point conclusively once and for all? Is it not the case that under the proposed Nursery School Regulations which he wishes to make under the discretionary powers he is asking the House to give him, it

says: "Nursery school means an independent school which is used mainly for the purpose of providing education for nursery pupils". If that is the case would it not be possible for anybody to refuse to register on the basis that he is not providing education for nursery pupils, he is just looking after them because by definition it would not be a nursery school and that is already being controlled under the Education Ordinance which is passed to control schools and nothing else, where people are educated not looked after. In UK people who are in child-minding establishments are not covered by the educational authority they are covered by the Social Services.

MR SPEAKER:

And they are known as Kindergartens.

HON CHIEF MINISTER:

Mr Chairman, I speak with some authority on this as a young father of young children. It is not to say that nurseries are not schools in any way. Private nurseries do provide an element of preparation for going into schools, they do that. They are not just play groups, they are called play groups for the younger ones, teaching is not the whole basis of their time but they do come out of those private nurseries with knowledge of numbers, of the alphabet, which in other systems of education are not now favoured to be known because they think in terms of sounds rather than on words but they do get a certain amount of, I would put it at the lowest, primary educational instruction. They are not there purely to have the children parked there and play. They do get instructions as to colours, they are taught how to draw, to make pictures and so on, according to their age, of course, you do not do that with an 18 months child. They do give an element of primary instruction and therefore, whether you can call it a school nursery or a nursery, or a nursery for under 4½, it is a matter of definition. They may not get the same kind of institutional instruction that the nursery section of the Government schools, the limited ones we have, have. That is a different matter, but the nurseries are nurseries up to the age of entry into schools where instruction is given of some kind, of alphabet, numbers, colours and many other similar matters that can be assimilated by a child up to 4½ years old.

HON J BOSSANO:

That is totally irrelevant. I am not disputing the benefits. One can argue that if you have children playing together they gain social skills and that is part of the social education. That is irrelevant. There is a definition that says: "A nursery school means an independent school which is used mainly for the purpose of providing education for nursery pupils". I am asking, on that basis, if tomorrow I start a private nursery and I am asked to register and I say I refuse to register because in my case I am not running an independent school used

mainly for the purpose of providing education for nursery pupils, that is not what I am doing, therefore this does not apply to me. Does that mean that everything that we have said here is irrelevant and that people can simply get out of all the clauses by saying that they are not providing education, that that is not their main purpose? Because if it is their main purpose then they are independent schools as defined in Section 31 and there it is not just the new Clause G, surely, that applies, it is the whole of Section 31 and therefore the Government has got a responsibility before it licences to say the school premises shall be suitable for a school. Well, how can they say that a room in a flat in Varyl Begg is suitable for a school? That is being contravened if Section 31 applies to that room. It is a question of perfect, plain English and either I am blind or nobody else wants to look at it that way, Mr Chairman. To me it is perfectly clear, what the law says.

HON CHIEF MINISTER:

May I just make a point that I was not dealing with Section 32, the contents of which I have not got before me. I was dealing purely on the question of the definition of nursery schools and I am sure that the bulk of the people who run nurseries would not try to get out of it by saying that they do not teach by having a nursery in order to flout these regulations because very quickly, if that were the case and that was a loophole, that would be closed. I think all the people who have nurseries for children up to 4½ until they go into our schools, do accept that they have an element of instruction, do not want to get out of the strict interpretation that the Hon. Member is giving in order not to comply with the Regulations, very much the opposite. From the information that has been received by the Minister it is quite clear that they are all anxious to comply. Perhaps we are such law abiding citizens that they do not look for loopholes as the Hon. Member is suggesting that that is a way of getting out of the Regulations.

HON J BOSSANO:

Mr Chairman, I am not suggesting that these people are going to look for loopholes. I am making a specific example in order to prove a point. I am asking if my interpretation of the law is correct because that is the basis on which I am opposing this legislation. And I am asking specifically am I correct in saying that if you define a nursery school as an independent school which is used mainly for the purpose of providing education, then anybody is free to set up a nursery that is not a nursery school by definition because it is not set up mainly for the purpose of providing education. Is that correct or not correct in terms of interpreting what the law says?

HON ATTORNEY-GENERAL:

My own view, and this is a view, is that if you can in effect show that the place that you let children play in has no instructional value whatsoever, or educational value whatsoever, then yes, you may be outside the scope of the Ordinance. But I make another point in that case the House has never addressed that question. But, with respect, I agree with the Hon and Learned Chief Minister as I am sure the great bulk of places where children go to which are commonly known as nursery schools or nurseries, can be shown to have an element of educational value about them and therefore to bring themselves under the control of the Ordinance.

HON J BOSSANO:

I see. So therefore the Hon and Learned Attorney-General is telling me that in applying the registration of private nurseries it will have to comply with Section 31, which is the only thing that there is, and therefore the Director shall not grant approval for the establishment or conduct of an independent school which he says is a place where the definition is a totally negative one, that is that in order not to qualify as an independent school you have to show that there is absolutely no educational value, irrespective of whether there is any instruction taking place and that therefore they will have to satisfy the following requirements. The schools premises shall be suitable for a school, the premises shall be adequate and suitable having regard to the number, ages and sex of pupils to be accommodated therein. Efficient and suitable instruction shall be provided. It is not a question of getting educational benefit, it says specifically in the law, efficient and suitable instruction shall be provided in a school and he said that this is a school under Section 31. That is what the law says, Mr Chairman, and it is available for anybody to read. Is he telling me that people who register under these proposed nursery regulations will not be required to comply with the law as the law states because in this amendment, Mr Chairman, he is saying by adding the paragraph (f) the word "and". So if he is adding to the paragraph (f) the word "and", it means that they have to comply with (g) which he is introducing now, and with (a), (b), (c), (d) and (f) which I am quoting, or am I wrong in the way I read the law because I am not a lawyer, Mr Chairman. I accept I am not a lawyer and I prefer to be corrected as we are so well endowed with legal minds in this Chamber.

HON MAJOR F J DELLIPIANI:

I am not going to get into technicalities and the legal things of what the amendment should be or not. I am going to go on the practical side of things. What is intended with this Ordinance is, and I quote the word, we were talking of independent schools, just independent schools, because that is what the Ordinance is covering. We are talking about private schools. It specifically says in this Ordinance

nursery school regulations. This is the Ordinance I am trying to introduce. I am not talking about schools. I am talking of nursery schools and I am putting an adjective to that school. It is no longer a school in the sense of a school as a layman knows it. We are talking of a nursery school. All we are trying to do is to protect the consumer by laying some minimum standards. We have written to all the nurseries concerned. They have written back with some suggestions as to the law. In general they agree with the standards that we have set up. All I am asking for, and I do not care how we do that, is that we have the powers to provide the regulations in consultation with the people concerned and they have already submitted their suggestions and objections to enable us to get on with the regulations so that we protect not only the schools but themselves, too, so that they have the minimum fire standard requirements, the health requirements, etc, etc, and to give us the enabling powers to make sure that they have it. But we are not asking them to have qualified teachers, etc, etc. To me it is a red herring, with all due respect. I am not a lawyer, I am less of a lawyer than he is. I do not know the technicalities. I am talking of a real Ordinance that I have brought here, it does not mention all the other Ordinances, it mentions specific health requirements and fire requirements and that is the Ordinance before the House.

HON J BOSSANO:

No, Mr Chairman, with all respect to the Hon Member. He is talking about regulations that the House has not seen. He has not brought an Ordinance here that mentions nurseries at all. We are discussing an amendment to Section 31 of the Education Ordinance. If he does not know the law, he ought to, he has been in this House long enough. What is the power that he is seeking under the amendment he is trying to get us to vote in this House? He is asking for my vote to something and he has got to understand what it is he is asking my vote for. If he does not understand it then he should not ask for it. What power is it that he does not have today under the rules for standards for nursery school premises, 1965? What is it he wants to do that he cannot do at present with these rules? Can he answer me that question, or does he not know what the rules say?

HON MAJOR F J DELLIPIANI:

This Ordinance is actually specifying things.

HON J BOSSANO:

And does not the present rule say that every nursery shall be provided with sufficient and suitable washing and sanitary accommodation and doesn't that give him the power. If he wants to, to say everything he is saying in the regulations because it is totally discretionary. What is suitable and sufficient is determined by the Department. I think this is preferable

and that point of view has already been put to the Department, that it is preferable to have a discretionary power rather than a rigid one because in one particular area, in one particular circumstance, one toilet might be suitable for 20 and sufficient depending on the age and the locality and all sorts of things, in other areas it might not be. So you should not have a rigid one for 15. The power he has today is totally sufficient for him to do what he wants to do. The amendment that he is seeking to the Ordinance has got nothing to do with what he says he wants to do, Mr Chairman, but what we are debating in this House is not what is in his mind but what is on the floor of the House and that is what I am speaking to. And I still submit, Mr Chairman, that everything that we have been discussing about nursery schools and nurseries is irrelevant to the amendment of Section 31 of Part 5 of the Education Ordinance which specifically talks about independent schools, an approval for opening of independent schools. I think that is the issue we have to vote for and I am suggesting to the Hon Attorney-General that this Ordinance which he wants to amend has nothing to do with what the Minister for Education says he wants to do and I am saying to the Minister for Education that what he wants to do, in my judgement, he can do already with the existing rules.

MR SPEAKER:

I think the point has been laboured long enough and we must bring the debate on this particular Clause to an end unless there is any other contributor who wishes to add something of value.

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

The Hon I Abecasis
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 E G Montado

The following Hon Members voted against:

The Hon J Bossano
The Hon A J Haynes
The Hon P J Isola
The Hon A T Lodo
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 A J Canepa

Clause 2 stood part of the Bill.

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

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

The House recessed at 1.10 pm.

The House resumed at 3.30 pm.

THE TRADE LICENSING (AMENDMENT) (NO 2) BILL, 1982

Clause 1

HON ATTORNEY-GENERAL:

Sir, I move that Clause 1 be amended by omitting sub-clause (2) as this sub-clause is no longer required.

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

HON G T RESTANO:

May I ask, Mr Chairman, when will the Bill come into effect?

HON ATTORNEY-GENERAL:

As soon as it is passed and assented to.

Clause 2

HON G T RESTANO:

Mr Chairman, during the course of the general debate I made a point which I believe was agreed to by Members of the Government, and that was that the import licence should be related to the trade licence held by the traders concerned. May I ask how this is going to be incorporated into the Bill?

HON ATTORNEY-GENERAL:

First of all let me say I do not think it would be appropriate to include actually in a trade licensing measure provision for an import licence as such, I think import licensing and trade licensing are two separate things. I must say I understood the point of the Hon Member's concern to be that if a trader has his trading licence and also by virtue of the new provisions is to get a licence to cover the act of importing that it could all be subsumed under one head, which it can, I am quite happy that it can, so there would not be the inconvenience of holding several licences, but I do not think it is possible in this Ordinance to have a concept of import licence as such. I do not think it is necessary, actually.

HON G T RESTANO:

Well, as I understand it, Mr Chairman, whoever wants to import any goods into Gibraltar will have to, under the amendment in this Bill, will need to apply for an import licence. This is a sub-clause in the trade licence which also means the importing of any goods into Gibraltar in commercial quantities. The point that I am asking is that somebody might be dealing, I think the example I gave at the Second Reading was that somebody might have a trade licence to be a wholesaler or a retailer in foodstuffs and then apply under this amendment to import radios without having in his trade licence the possibility of either selling radios by wholesale or retail and I think that one should be related to the other.

HON CHIEF MINISTER:

In the absence of my Hon Colleague the Minister for Trade who is unwell and may not be able to come unless it is absolutely necessary, I will try and give my understanding of the situation. This is a new concept, that is to say, to be an importer of commercial goods, a wholesale importer, you must have a licence. You may be dealing with cage birds or meccanos but if you want to import wholesale television sets you have to go as if you wanted to start a shop of electronic goods to get a licence, to the Trade Licensing Committee. You get it and then you are an importer or whatever you have applied for and you get it. To get it you will have to go through the same procedure as you do now, you have to announce and give notice so that people can object. What I think was mentioned was that the people who sell goods of a nature are more likely to get the import licence to import than wholesale than for them to get a licence to import wholesale other goods. There could be people who would only be interested in importing wholesale and not in selling and they may not be in the business, that is a new business as anybody who announces he wants to apply to open a shop of any kind. Import licence means a trade licence to import, it is not an import licence, if you need an import licence under another law is a different matter. What the Hon and Learned

Attorney-General was saying which is something that I can understand, was that for convenience sake if you have got a licence to trade in electrodomestics and you have applied for a wholesale licence to import electrodomestics that your licence would cover both as a matter of convenience, you would not have two licences, but that would be that you have obtained them separately and we all know why this is being done and that is to avoid people coming, if and when, overland bringing quantities of goods for which they might not be possible to be stopped unless you could say you cannot import goods because you are not an importer or a wholesale dealer in those goods.

HON G T RESTANO:

How would commission agents be affected by this amendment?

HON CHIEF MINISTER:

They do not import goods, they commission goods.

HON G T RESTANO:

I believe in some cases that does happen, in other cases they do import for their own account and then redistribute the goods that they have imported.

HON CHIEF MINISTER:

Well, one of the things that was done even back in 1972 when we passed the Trade Licensing Ordinance was that anybody who was dealing with this had got three months in which to register and get his licence.

HON W T SCOTT:

I did bring up in the general principles of the Bill the question of building contractors undertaking Government projects where goods are allowed to be imported duty free and become the property of the Government at the time of importation and the understanding I had was that Government would be investigating this and I wonder in fact whether they thought about this and whether in fact this particular Bill has any influence on building contractors in the sense that I have been talking about.

HON ATTORNEY-GENERAL:

I do not think it does for two reasons. If the Hon Member will look at the term "commercial quantities" by itself, I do not think that is an apt term but if I may say so, even without its re-sale I do not think commercial quantities is an apt description to describe what happens when a building contractor brings things into Gibraltar because he is really bringing in material to use on a job and the words commercial quantities to me has an implication of dealing.

HON W T SCOTT:

A builder building something under contract for the receipt of money is a commercial enterprise and it is a commercial operation and it is made for gain and it is made for profit.

HON ATTORNEY-GENERAL:

It is not so much that it is a commercial operation but commercial quantity. In fact, I think the "commercial" is not apt and I do not think that that situation is a situation in which one is talking about commercial quantities but in any event I think in these cases where a building contractor brings something in for the Government he is really acting as the agent of the Government and the consignment is for the benefit of the Government. I wouldn't myself advise that it is caught by the definition.

HON W T SCOTT:

I am mentioning this, Mr Chairman, because it is as far as I am concerned a little bit of an unclear area because the goods are not consigned to the Government, they are consigned to the individual contractor who presumably does the importing on his own behalf after having secured the necessary duty exemption from the relevant Government Department.

HON ATTORNEY-GENERAL:

I am content that it is alright.

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

Clause 5

HON ATTORNEY-GENERAL:

I would like to mention the question of the scope of Clause 5 which was the subject of discussion at the Second Reading. I have looked at it and I am quite satisfied myself that it does achieve what we mean it to achieve and that is this; Clause 2 of the Bill comes into operation when the Bill commences and that lays down a general proposition and the proposition it lays down is to widen the term "trade" to include importing in commercial quantities and thereafter once the Bill becomes law if it is enacted and once it becomes law, anybody who is such an importer, a person engaged in importing things in commercial quantities, will be a trader and he will require a licence. I think that is quite unequivocal and he will require it by virtue of that very act of importing in commercial quantities, I am sorry, and the licence he will require will have to specifically authorise him to import or go further than that, it will have to show what sort of goods he can import. That will be found in Section 3(1)(b) of the principal act and that is the general rule which is being

brought in. Clause 5 to which discussion was addressed, is a special transitional law and it is intended to cover persons who are actually carrying on the business of importing and it is intended to enable them to continue to do so providing they apply within three months. There are only one group of people who will be able to benefit from this and they are the people who can show that immediately before the Bill comes into force they were in fact importing goods, not trading otherwise, but actually importing. The operative words, I think, and I would just like to say that even though the Hon Member is not present, Mr Chairman, the operative words are to be found in Section 5 and they are: "whereby reason of the amendment affected by this Ordinance" - I am paraphrasing it - "a person would be required from the commencement of this section to have a licence to carry on any trade that he does not previously require a licence for and the very thing is importing". Previously before this comes into force he does not have to have a licence for importing but once it comes into force this is the very amendment that is being made to the principal Ordinance and he must have a licence for importing and that is all it relates to and in no circumstances, as I say, if he can show that he was importing immediately before the Ordinance, then he is entitled as of right to apply for and get a licence to go on doing so but I do not agree, with respect, that it enables people who were not importing immediately prior to commencement to get in on the transitional provision. I looked at it and I cannot agree that that is correct.

HON G T RESTANO:

Will a charge be made for the application?

HON ATTORNEY-GENERAL:

Yes, it will. He will be entitled to the licence and as long as he applies within three months he will be deemed to be licenced. He will continue to be deemed to be licenced whilst his application is being processed and he must be given a licence but he also has to pay the annual licensing fee.

HON G T RESTANO:

I mean a person who is already importing and has a trading licence to wholesale and who is importing whatever type of goods it is, when he applies to import and to have that import principle included in his licence, will he have to pay an extra fee?

HON ATTORNEY-GENERAL:

He will have to pay the appropriate fee for getting a licence. He is entitled to get the licence but he must also pay for it.

HON G T RESTANO:

He has already a trading licence, I am talking about the import licence or the licence to import. Will a further charge be made on the licence to import?

HON ATTORNEY-GENERAL:

Yes.

HON G T RESTANO:

How much will that be?

HON MAJOR R J PELIZA:

I understood the Chief Minister said that it was just one fee.

HON M K FEATHERSTONE:

If one applies for a trade licence to be extended, there is no charge for the extension.

HON G T RESTANO:

I am sorry, I must contradict the Minister, there is.

HON CHIEF MINISTER:

You pay for a licence which is £3 a year or £1 a year.

MR SPEAKER:

There is most certainly a charge for an amendment to a licence.

HON ATTORNEY-GENERAL:

Mr Chairman, in saying that they could be subsumed under one licence that was thought reasonable and convenient, that does not carry with it the implication that there could be no charge for the extra bit. All I was talking about was the convenience of having one authority under a single bit of paper, as it were, but there would still have to be an application and the appropriate fee would be payable on application.

HON G T RESTANO:

But I am asking what that appropriate fee will be because a person who has a trade licence, has had that trade licence and pays a renewal fee every year and what I am asking is whether to apply for a licence to import will be a further charge on the trader and whether it will be a one off charge or an annual charge and what that charge will be?

HON ATTORNEY-GENERAL:

I cannot tell you what the charge will be, I will have to look it up, but it will be a charge that has to be paid and thereafter whatever licence the person ends up with in totality would have to be paid for each year under the renewal.

HON W T SCOTT:

I do not know, in fact, whether it would fall under this clause or generally but the thought struck me whether a person or a group of people or a company might be undertaking a business for which as the law stands at the moment no licence is required because of the introduction of a licence for importing goods that that person or group or business uses in the course of his business, that that company or group or that individual would now require a licence.

HON CHIEF MINISTER:

The essence of this is that we must make it applicable to everybody otherwise it is completely repugnant to the European treaty.

HON A J HAYNES:

Mr Chairman, how does this affect commission agents in Gibraltar?

HON CHIEF MINISTER:

We have already had that one answered.

Clause 5 was agreed to and stood part of the Bill.

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

THE TRAFFIC (AMENDMENT) (NO 2) BILL, 1982

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

Clause 5

HON M K FEATHERSTONE:

I would like to mention one small point, Sir. It has been mentioned that Gibraltar licences will not be automatically exchangeable in the UK for a UK licence but I would inform you that the FCO is already taking it up on Gibraltar's behalf with the relevant authorities that a Gibraltar licence can be exchanged in the UK for a UK licence and it is hoped to get a decision which will be favourable fairly shortly.

MR SPEAKER:

I understand there is an amendment by the Hon. and Learned the Attorney-General.

HON ATTORNEY-GENERAL:

Mr Chairman, I beg to move the following amendments to Clause 5. In Clause 5, Sir, omit Section 46(a), sub-section (2) and substitute the following sub-section: "(2) Section 1(a) refers to a vehicle in any of categories A to E inclusive or in any sub-division of any such category; and (b) does not apply to a national driving licence that is limited to the purpose corresponding to the purpose specified in section 17(1)". The reason for the amendment is quite simply that my attention was drawn to that section, discussing it with an Hon Member, and as I read it for what was initially another reason, I came to the view that it would be better expressed the way I have expressed it. There is no intention to change the substance but I think it is more accurately expressed the way it is put now and I move accordingly. Basically, if I can explain a little further, I think I should, this sub-section is concerned to define which categories of vehicle can be driven in each of the countries, in other words, outside Community states and in Gibraltar and it is also concerned to provide that while national driving licences from other countries will be recognised they will only be recognised if they are not learner licences and that is the significance of the reference, Sir, to section 17(1) of this Ordinance because the purpose defined in section 17(1) of this Ordinance is for the purpose of learning to drive. The mutual recognition will not apply at learner level, it will only apply to what one might call the standard licence. I move accordingly.

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

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

THE GROUP PRACTICE MEDICAL SCHEME (AMENDMENT) BILL, 1982

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

Clause 2.

HON J B PEREZ:

Mr Chairman, I beg to move an amendment to Clause 2 of the Bill to omit the figures of "£25.40" and to substitute the figures "£23.40". This was merely a printing error.

Mr Speaker put the question in the terms of the Hon the Minister for Health and Housing's amendment which was resolved in the affirmative and Clause 2, as amended, was agreed to and stood part of the Bill.

HON G T RESTANO:

Mr Chairman, when rounding off his contribution at the Second Reading the Minister complained that I had not been elaborate enough in my own contribution as to why we opposed this Bill. I had two points to make and I made them, I do not believe in repetition as he in fact repeated himself on four occasions on one of the matters. But, anyway, the point I wanted to make was that one of the reasons that I had given was that I considered that the contributors to the GPMS were second class patients when they went to see consultants as opposed to those who went privately and he asked that I should point out examples to him. I want to make it quite clear that I do not consider that it is my job to give him specific instances. I have complained about that particular practice in the past and I think it is up to the Minister to investigate, I know this is happening and I know that he knows that it is happening. The second complaint that he had was that I had made no mention or virtually no mention about the new category of contributors that had been introduced. I want to make it quite clear and I think I made it quite clear in the two points, I did not elaborate, I did not repeat but I said that we feel that all pensioners should get free medicines after they reach pensionable age, not just a few, all pensioners, and that has been argued for many years now. I just wanted to make those points quite clear for the record.

HON CHIEF MINISTER:

Mr Chairman, regarding the first remark, of course it is not the duty of Members of the Opposition to give any particulars to the Minister, naturally, but on the other hand if Members of the Opposition keep on complaining about things happening no doubt either bona fide because they have been told or because they have heard about it, if they keep on saying that and they do not inform the Minister, give the Minister information even on a confidential basis, then the protest cannot be taken seriously at all. The Member cannot be taken seriously if he keeps on repeating a complaint and does not give any example. The Minister received three complaints and he investigated them. It is easy for Members opposite to say there are complaints. Well, it is not that they have to be informers of the Government but it is normally done in every legislature that if they know of cases they do not bring them to the floor of the House, naturally, but they give them if only as an example. What the Minister wants is to investigate them, to see whether it occurs and if it occurs to uproot them. But what he says is that he has received no complaint. On the second point, in which I should declare an interest, I think it is preposterous that I should get because I have been lucky enough to reach the age of 65, that I should

get free medicine at the expense of the State and free treatment at the Health Centre because I happen to be over 65 and somebody who is just under 65 and his circumstances are much more difficult, unless of course he is on supplementary benefits, has to pay for it. It is enough advantage, and we have heard that from them on another aspect, on the fact that old age pensions are not taxable. Why should the State, with the longevity of life, why should the State carry that when we know that any old age pensioner whose income is below a certain level gets it free and we know that if there is a sort of in-between line the Minister administratively through his Department has got authority to remit these, not just for one occasion but to remit them all the time. If a case comes to the Minister as being one of the borderline case, the Minister gives his authority and until that is revoked the services are rendered free. These are the two points I wanted to make on the matter.

HON G T RESTANO:

I would like to answer the Chief Minister on both of the points. The first point he says was that we should give examples when we repeat our complaints.

HON CHIEF MINISTER:

I did not say that, I am sorry, you have got this wrong. What I say is that you should tell the Minister, not that you should give examples here.

HON G T RESTANO:

I do not agree with that. He has all the examples there. Why does a person who requires to pay nothing if he goes through the GPMS, why do so many people go paying? I know that the Minister has said in the past that it is a status symbol to go privately but I do not agree, I do not agree. I think it is because those people who go privately know that if they go privately they are going to get a better service, a quicker service, and therefore he has got all the examples that he wants up in the hospital, if he were to be there to see them. As far as the second point is concerned, and I suppose this is maybe two completely different opinions, the opinion of the Government and the opinion of the Opposition. We feel that persons over 65 should get their medicines free in the same way as the old age pensioners get their pensions free, I think that it is only right and proper for people who have been contributing towards Gibraltar, towards the community, towards their taxes, towards their social insurance and so on throughout their lives, that they should have a little bit of recognition at the end of their lives, well, not at the end of their lives but from 65 onwards, when they reach pensionable age. It is a time when I think they need it most, when this is most welcome in the same way as this is the time when they need their pensions most and that is why we believe that that should be completely free of charge.

HON MAJOR R J PELIZA:

There are two issues the Minister should give further thought to. This question of someone coming up with a complaint, particularly on something that is affecting his health, you might say, to complain about the person who has got to see him and then believing that somehow this is going to come to the ears of the very doctor that he is supposed to carry on seeing.

HON J B PEREZ:

If the Hon Member will give way. If I get a complaint against a particular doctor from a patient, would the Hon Member tell me how can I investigate it properly if I do not ask for the comments of the doctor involved?

HON MAJOR R J PELIZA:

I was coming to that. So therefore I think the Minister is almost accepting that it is very difficult for a patient to complain about the treatment he gets from the doctor. I personally would never do it. I would be very scared to do it because I would feel that immediately I was going to create an enemy in the person who has got to give me life. I think the Minister should realise that it is very, very difficult for a patient to complain about the doctor. If it is a fact that it is going to be very difficult to get the complaints that he wants to receive before he takes action, one has got to make a judgement if under the circumstances that this is working, is it right for such a situation to take place, for such events to take place? Well, this is the judgement he has got to make. Perhaps he thinks that it does not take place, perhaps his judgement is, no, the administrative way of doing this is foolproof, this cannot happen, and the only way that I will take some action is if I get an official complaint to make me change my mind. This is the judgement that he has got to make. What we are saying is that the situation exists where that is happening and it is up to him to change his mind or not, but this is happening and I think that he is in cuckoo land if he believes that this is not so because it is so. The other one is the question of the elderly people over 65. That, to me, is a principle. We as a society should look after people over 65. It does not matter whether they have money or they have not got money. Our duty is to look after people over 65 because if we start making distinctions between one and the other we very quickly create a different class which people do not like. It is very difficult for an individual to say he cannot pay that and have to go through a means test of one description or another. It is humiliating and in fact we have been trying to do away with means tests as much as possible. I do not know how much more this is going to cost the Government but I feel that if it is necessary add, perhaps, to the tax of those who you say can pay in any case. This is a decision that the Government has to make. When I am pensioned at 65 I do not know what situation I shall be in

but if I can pay, alright, take it off my tax, now or before or whenever it may be and then you create, I think, a more egalitarian society which I believe is what we are aiming at if we can, not marxist or anything like that but within the Welfare State that I think we all believe in, try and do away with that distinction of the person who has got to pay and the person who has not got to pay and do away with the means test because I think a means test is always disagreeable. Perhaps the Minister could give it further thought.

HON CHIEF MINISTER:

I must make one point because I think it is important. I entirely agree with the Hon Mr Restano but let me say that as far as we are concerned as a party, it is not that we do not want to do that and to carry out the proposals mentioned by the Hon and Gallant Member. It is that having regard to the constraints and so on, we feel that the distribution and the burden should be in another way. The approach is exactly the same except that we feel that the money that would be lost by making people who can pay not pay would be a burden on other people who should not carry that burden, is the difference. It is a matter of approach. As far as I am concerned let there be no contribution. In England, you can travel free of charge on trains and buses at certain times and on certain days if you are over 65. Some municipalities organised special trips and everything, all sorts of things. If the community can afford it it is alright but the only point is the question of priorities. The sentiment is completely shared.

HON G T RESTANO:

Would the Chief Minister like to say how much it would cost the Government if pensioners were not asked to contribute?

HON CHIEF MINISTER:

I do not know. We may be able to get a better judgement of all these things after the census is considered. I was looking at some figures prior to the census and I am happy to say that from 1961 to 1981 the people over 60, 65 and 70 has doubled and in fact insofar as people over 90; there were 14 people in 1961 over 90 and there are 47 now, so that the number of people who are living longer is much higher. As the Minister for Economic Development said in the statement he made, this will be very helpful to us in gauging the kind of benefit that one can give and being able to have real up-to-date statistics of the population and the cost of it.

HON G T RESTANO:

Of course we all welcome that the life span is extended but what I am saying is how much has been the revenue of the Government from the pensioners' contributions in the last 12 months? Surely, this is a separate amount which goes in, surely that figure must be readily available?

HON J B PEREZ:

Mr Chairman, the answer is very simple. Because all these people who are paying are in fact voluntary contributors so if they are paying 61p a week and now they will be paying, hopefully, after the Bill is passed they will be paying from January, 1983, 70p we have, on average, around 6,000 people who are paying those contributions. Out of that a certain proportion must of necessity be self-employed persons like myself. If you take an average of, say, 30% to be the voluntary contributors who are not in employment, that is more or less the figure that is coming into our coffers. The point involved here, as I have pointed out on many occasions, is that most pensioners, most people, we do apply the means test that the Hon and Gallant Major was asking us to consider, that is precisely what we have, we have the means test. When you are not working, let us take for example somebody who is over 65, there is a means test. We have that already and the majority of Gibraltarians, of single persons and married couples over 65 do not in fact pay and I venture to say that 90% of those people in Gibraltar over 65 who are not in employment, even up to 90%, in fact do not pay so what are we talking about, Mr Chairman?

HON MAJOR R J PELIZA:

If the Minister will give way. I think I understood him to say that I wanted a means test I said no, the opposite.

HON J B PEREZ:

I understood the Hon Member, Mr Chairman, to say that within a welfare state we have to have some form of a means test. What I am saying is that all we are talking about is 10% and of those people I can assure the Hon and Gallant Member that most of these people are people who are very wealthy in their own means and I would be against telling that person that he should not pay, but at least 90% do not pay a penny which is really what we want. The Hon and Gallant Major asked whether the Minister was living in cuckoo land. Mr Chairman, the Minister of Health and Housing lives in Gibraltar and not in London and I live directly opposite the hospital so I am very accessible to the people of Gibraltar and I have been Minister for three years. What I am saying, as far as complaints are concerned, is that of course there have been complaints. In the Health Centre, in which you have seven doctors and at least each doctor is seeing a minimum of thirty patients per day, so let us say $5 \times 30 = 150$ people go to that Health Centre daily. 10% are referred to the hospital, so if you do your arithmetic, you can imagine the amount of people who are referred to consultants. Of course, there must be complaints. But what I am saying is that I have not received as many complaints as the Hon Mr Restano seems to have received. This is why I say that the few complaints that have been referred to me have been investigated fully. On certain occasions we have had to apologise to the patient, there is

nothing wrong with that, and I do not think that anybody should hide that there have been complaints and they have been bona fide, of course, there have been. But what I am saying is that Mr Restano every time he comes to the House and he puts the question of consultants he seems to give the indication that everybody who goes up to St Bernard's has a complaint and I can assure the House that that is not the case.

MR SPEAKER:

I do not think it is fair that we should open the subject today.

HON G T RESTANO:

Mr Chairman, I think that is a total misinterpretation. I have never said that everybody who goes up to the hospital has a complaint, I did not say that at all. All I was saying was that the person who is referred from the Health Centre gets a different treatment to those who go private, that is all. I am not saying that everybody has a complaint.

HON J B PEREZ:

He said that they were second class patients, Mr Chairman, and that is incorrect.

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

HON W T SCOTT:

During the course of the winding up on the general principles, the Hon Member opposite said something that I disagreed with and I asked him to give way and he refused, and that is when he said, and this is again a point that has been made consistently and continually by my Hon Friend, Mr Restano, on the private practice of consultants in the hospital.

MR SPEAKER:

With respect, how does that come under Clause 2?

HON W T SCOTT:

Yes, this has also been brought up in Clause 2 and consultants practising privately have already been mentioned.

MR SPEAKER:

Very well, go on.

HON W T SCOTT:

I think the Hon Member is more aware than we are here of the fees that have to be paid to consultants by private patients at the hospital. I think the figure is between £10 or £15, and he himself said, the consultants are limited to 10% of their annual salary which I believe is something like just over £20,000. At £10 per visit that would make something like four patients to be seen a week, less than one a day. I know of cases even within my own family where I have had members of my family, at least three of them, go on the same day and I cannot believe for one moment that consultants, or one in particular, limits himself to seeing less than one patient a day. What we are trying to say here on our side of the House is that under no circumstances at all should the hospital be used for anything else other than the intention it was intended for and not as, perhaps, a loosely defined money-making exercise by anybody.

HON J B PEREZ:

Mr Chairman, I agree entirely with the Hon Member, but if he had listened properly to what I was saying at the Second Reading, I said that we were investigating certain cases because they had submitted their accounts, that is what I said, so the information that he is now throwing back to me is precisely what I told him at the Second Reading that the Department and the new Director was doing on my instructions because I am aware of what he has just said. I was the one who said it, it did not come from the other side.

HON W T SCOTT:

It could still be very easy to monitor in the hospital one patient a day.

HON J B PEREZ:

Of course I agree. Can I just say one more thing if I may, Mr Chairman?

MR SPEAKER:

If it is relevant to the clause, yes.

HON J B PEREZ:

What I am extremely surprised is that in this particular clause, Clause 2, what we are being asked is to vote for a very small and minor increase in contributions and the reasons that have been adduced in this House for not voting in favour of this particular Bill is because the Opposition are dissatisfied with the service of consultants but, Mr Chairman,

they are forgetting that most of these contributions are in fact in connection with the GPMS in which you have seven doctors and I have already said 150 people are seen daily and no complaints have been raised from that side of the House of the service that the doctors are giving at the Health Centre.

MR SPEAKER:

That is precisely why I was saying that the whole debate for the last half hour has been irrelevant to the matter before the House. I entirely and utterly agree with you.

Clauses 3 and 4 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) (NO 3) BILL, 1982

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

Schedule

Schedule of Supplementary Estimates Consolidated Fund (No 3 of 1982/83)

Item 1, Head 2 - Customs, was agreed to.

Item 2, Head 7 - House of Assembly, was agreed to.

Item 3, Head 10 - Judicial (1) Supreme Court, was agreed to.

Item 4, Head 14 - Medical and Public Health

HON W T SCOTT:

What was the nature, Mr Chairman, of the outstanding commitment?

HON J B PEREZ:

Mr Chairman, it was money left over at the end of last year. We had not received the bill for a particular piece of equipment so, according to financial instructions, at the end of the year you have given back the money so this is why it is a re-vote.

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

Item 5, Head 15 - Police

HON J BOSSANO:

On the salaries of the Police Reservists, I do not think we have been given an explanation as to why it is that the Police Reservists were needed initially and why they are not needed any longer.

HON CHIEF MINISTER:

I think, with respect, Mr Chairman, it was fully explained by the Attorney-General. They were employed on the basis that they were going to be in charge of car parks and then on further enquiries it was found, according to the Police Ordinance, that that was not a proper kind of work for them. They have been used in the meantime for other more light Police duties and because they were employed on a temporary basis as was clearly explained here at great length yesterday, they were given notice, some of them have resigned on their own.

HON J BOSSANO:

I am voting against this, Mr Chairman, because I think the matter should have been checked before they were employed not after they were employed.

HON P J ISOLA:

You have to pay them.

HON J BOSSANO:

Well, I do not agree that they should have been employed on that basis and I am not prepared to take the responsibility for paying them when I was not involved in any decision of employing them and, in fact, my understanding is that the Commissioner employed them without consulting anybody so perhaps they should surcharge the Commissioner.

HON CHIEF MINISTER:

Your understanding on that is completely wrong. Certainly, I knew that they were being employed because it was at the time we were taking all the measures necessary for the 25th June.

HON A T LODDO:

Mr Chairman, I have on a number of occasions asked questions concerning Traffic Wardens which is what apparently these Reservists were originally intended to be. It was found, obviously, that they could not be employed as Traffic Wardens and so their employment is being terminated but does this mean that the idea of employing Traffic Wardens has been abandoned altogether?

HON CHIEF MINISTER:

They were not going to be Traffic Wardens in the sense of what we call Traffic Wardens, they were going to be employed in charge of the parking areas that were going to pay a parking fee which is a different thing.

HON A J HAYNES:

Mr Chairman, will Government endeavour to find employment within Government for those I think it is five remaining Police Reservists? Although it says eight, Mr Chairman, I understand that three are either employed or in the United Kingdom. Can the Attorney-General tell me what they are going at present?

HON CHIEF MINISTER:

I can answer that one to some extent because the question of their re-employment was the subject of discussion. They have been employed by the Police to do quasi police duties and help Policemen in traffic and so on, they have been doing work more in the nature of a Police Reservist than they were employed for, as simple as that.

HON A J HAYNES:

There is an element of doubt as to how temporary their employment was.

HON CHIEF MINISTER:

I am told now by my Hon Colleague that some of them have been employed as Court Officers which is not unlike the job of a Reservist so that they have been doing work more akin to their description than for the jobs for which they were employed. As regards the first question which he has forgotten but I have not forgotten, what have we done about it, the answer is that they may have been able to get employment elsewhere by the time they come to the 3rd January, within Government, but since they were employed on a temporary basis and they have been given certainly three months notice, they have been on notice for that time, they have to seek other employment. The Government cannot possibly guarantee that anybody who is employed on a temporary basis when he is told that the temporary employment comes to an end give him another employment then there is never any temporaryness about it.

HON J BOSSANO:

Mr Chairman, I think the Government can confirm that there have been agreements, in fact, that because of the special circumstances the Police Reservists in question have been able to apply for all the vacancies that have turned up and that they have been given to some extent preferential treatment, is this not the case?

HON CHIEF MINISTER:

Yes, of course, as I said, we do what we can within the parameters, we cannot guarantee them work except that we try once we employ them to gear them into other employment within the Government as the good employer we are.

On a vote being taken on Item 5, Head 15 - Police, the following Hon Members voted in favour:

The Hon I Abecasis
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 Zammitt
The Hon D Hull
The Hon E G Montado

The following Hon Member voted against:

The Hon J Bossano

The following Hon Member was absent from the Chamber:

The Hon A J Canepa

Item 5, Head 15 - Police, was agreed to.

Item 6, Head 17 - Post Office (2) Philatelic Bureau

HON P J ISOLA:

Can I ask, before monies are transferred to the fund are the expenses incurred in the sales or in the production of the stamp or a proportion of it deducted or is this gross sales that is handed over?

HON R J ZAMMIT:

I understand that the production of the stamp is virtually negligible. I would not like to mislead the House. If my understanding is correct the Philatelic Bureau undertook the costs of printing which is negligible, there is nothing taken out of the complete sales and the advertising of it.

Item 6, Head 17 - Post Office (2) Philatelic Bureau, was agreed to.

Item 7, Head 20 - Public Works Annually Recurrent

HON W T SCOTT:

Sub-head 53, Mr Chairman. Could we have a further explanation as to the £80,000?

HON M K FEATHERSTONE:

The storm damaged the catchments in four areas, two areas were very severely damaged in which the sheets were actually torn up and blown away from the site. In a third area sheets were very heavily buckled, in a fourth area there was some slight movement but it was possible to put the sheets back into their proper position. The £80,000 is the cost of all the repairs, replacing the total quantity of sheets. I think the area that was actually torn up is something about one acre.

HON W T SCOTT:

Is this work to be effected shortly or are we going to wait for the summer months?

HON M K FEATHERSTONE:

Much of it has already been done by the actual waterworks employees and they are still actually doing it, it is hoped to complete it fairly shortly.

HON J BOSSANO:

Can I ask for a separate vote on Sub-head 2, the conversion of the Loreto Convent ground floor into offices for the British Nationality registration? I am against the conversion of the Loreto Convent. I cannot see that there is a need for a special office to be set up for this purpose since I assume we are all in agreement that the alteration that was introduced into the Nationality Bill is not going to disappear in February and that there isn't a need for the entire population to go and register in January.

HON P J ISOLA:

Many people will want to register as soon as possible. It may not be my Hon Friend's view but I think he will find a lot of people will want to register.

HON J BOSSANO:

In my view, Mr Chairman, we should not be spending £6,500 of public money for this purpose because I think people should be advised that there isn't the need for the entire population to queue up to do it on day one and that this should be done by the normal Government machinery and that the money should be used better on other things so we are against spending the money on this.

HON CHIEF MINISTER:

The answer, of course, is a matter of judgement. We anticipate that there will be a rush and therefore we have to prepare, it is no use doing nothing about it and then finding people at the Secretariat where the Passport Office is, queueing for that thing and then the people who queue up for their pensions, we have to provide a service. The money is not completely lost in the sense that it is intended, though we have not reached finality yet, it is intended and I think it was revealed in one of the questions answered by my colleague Mr Canepa, to use the Loreto Convent school for Government offices and therefore being able to release high rent premises that we rent for Government offices and also release badly required offices for the rather bad conditions under which a lot of people work in the Secretariat and therefore this is part of the conversion of Loreto Convent into offices made in advance for a purpose. There will always be there an office of some kind, if it is not a counter it is something else but the work has to be put in hand because we anticipate and in fact we have said that it would cost us money when we were talking about the fees, whether we should charge it or not, a matter which we commented on, but I must say that we feel we have a duty to be prepared to meet a possible rush on the 4th of January. It may be that after that it gets into a trickle but the offices will be used badly needed as they are for other purposes so it is not really money for that. We are making arrangements for that to be able to cope with it because our judgement is that there is going to be an initial rush.

HON P J ISOLA:

Mr Chairman, I don't think I can let the statement by the Hon Mr Bossano go by without us saying something about it. We agree entirely with the expenditure and we think it is a very wise move on the part of the Government to give the facility to a great number of people in Gibraltar who value their British Citizenship rather more highly, I suspect, than possibly the Hon Member himself and we feel that the facility

should be there, we support the expenditure entirely. We do not say that we expect there will be a rush, we hope there will be a rush because at least this will show the British Government and anybody who is interested in Gibraltar that at least we value our British Citizenship rather more highly than our telephone directory. I would only remind the Hon Member when the new telephone directory came out the queues that formed outside the Public Works Department and I would have thought that in the case of British Citizenship there should be at least a similar sort of enthusiasm to obtain their British Citizenship. After all, the British Nationality Act can be amended and certainly my advice to those who support this Party and in fact our advice to people would be get it while the going is good and register as soon as possible. So, Mr Chairman, we welcome this expenditure.

HON CHIEF MINISTER:

I would like to say one thing in respect of something that has been said. First of all, if there is a rush there is a big patio, people can be inside, they won't interfere with traffic and motorcycles and so on. The other point which is a much more serious one, which has been mentioned by the Leader of the Opposition, is one that was made by the mover of the amendment in the House of Lords who was responsible for getting the thing through. Lord Bethell at the Freedom Ceremony said: "It remains to be seen how many people take advantage of this amendment". I think whether you want the passport or you do not want the passport is another matter but I think that it would not reflect the heavy lobbying that we did in order to get this amendment if we took it completely coldly.

On a vote being taken on Item 7, Head 20 - Public Works Annually Recurrent, Sub-head 2, Maintenance of Offices and Buildings, the following Hon Members voted in favour:

The Hon I Abecasis
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 Loddie
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 E G Montado

The following Hon Member voted against:

The Hon J Bossano

The following Hon Member was absent from the Chamber:

The Hon A J Canepa

Item 7, Head 20, Public Works Annually Recurrent was agreed to.

HON W T SCOTT:

Sub-head 58, Mr Chairman, the importation of water. I have been under the impression that the importation of water agreement is an agreement or a contract. Am I to assume that the contract has been re-negotiated or that the term has expired and a new contract entered into?

HON M K FEATHERSTONE:

The terms of the contract do allow for increases to be made from time to time as long as these increases can be adequately substantiated. The rather heavy increase which has occurred at this time is three-fold. Firstly, the actual cost of the water in Tangier was increased. Secondly, the Tangier authorities who previously had been levying a tax on all liquids leaving the Port of Tangier, had not been levying this tax on water being supplied to Gibraltar and they suddenly; I would not use the word judiciously, but suddenly realised their error and found that they were losing quite a lot of money and so they decided to put this tax on to water supplied to Gibraltar as from April, 1981. Our water suppliers took very strong and energetic action against this because it would have meant a bill of something like £150,000 extra to pay for water which had been supplied throughout the previous year. Fortunately, they were able to convince the Tangier authorities not to levy this tax for the period 1981/82 and it only started to be levied as from April, 1982. Those two items, the increase of cost at source and the tax amounted to approximately 70 pence. The total increase was 78 pence, the other 8 pence being allowed to the carrying company on submission of detailed invoices from them that their wages bill had increased, their fuel bill had increased and their other small incidental expenses had increased in line with inflation.

HON W T SCOTT:

Might I ask, Mr Chairman, are these new increases already reflected in the production cost for the month of November?

HON M K FEATHERSTONE:

Yes, I think so.

HON W T SCOTT:

In fact, we are now reaching a stage, Mr Chairman, where the cost of importation of water is almost the same as that from the distillers.

HON M K FEATHERSTONE:

We are hoping that when we get the new distiller working or at least the present distiller working with the waste heat from the power station, it may be actually cheaper to distil than to import.

HON W T SCOTT:

One final question, Mr Chairman. Will this be reflected in an increased charge of water to consumers before the next Budget?

HON M K FEATHERSTONE:

Not before the next Budget. But I would not like to pre-judge what is going to be done at the Budget.

Item 7, Head 20, Public Works Annually Recurrent was passed.

Item 8, Head 22 - Secretariat

HON G T RESTANO:

I notice that the amounts required is £26,000; the amount actually now required being £13,900. If you sum up all the amounts in the right hand column it is £26,000. Where have such considerable savings been made? If all the amounts in the explanatory column are added up they add up to £26,000, and at the end it says: "These expenses are partly offset by savings in salaries arising from staff turnover". What sorts of savings have been made?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I would imagine that this is related to the fact that there is a time gap between the time that people are taken on. People have increments which they will not enjoy if they have left the service and these are provided obviously at the beginning of the financial year.

HON CHIEF MINISTER:

I think it is relevant to point out the huge amount of the Secretariat vote which is £579,000.

HON P J ISOLA:

The EO and two CO's for British Nationality Act registration. What are these, promotions in new appointments or transfers? We are voting £7,700 there for work, slightly more than in refurbishing.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

They are additional staff.

HON P J ISOLA:

We support it, I don't know about the Hon Mr Bossano.

HON J BOSSANO:

I think if you give people work you have to pay them. On the £6,500 for the extension of the staff inspector's service which it says is a re-vote from 1981/82. How can it be a re-vote, wasn't it paid in 1981/82 or what happened? This is something we paid because ODA terminated the staff inspector's appointment. The explanation then is that they paid him and we reimburse ODA. I see. I am against that particular item.

MR SPEAKER:

The only thing that you can hope to do is to move an amendment to reduce the vote by that amount, there is no other way.

HON J BOSSANO:

I will abstain on the vote because of that particular item.

On a vote being taken on Sub-head 1, Personal Emoluments of Item 8, Head 22 - Secretariat, the question was resolved in the affirmative. The Hon J Bossano abstained.

HON G T RESTANO:

On Sub-head 7, Rents of Flats and Offices. Which particular rents do these apply to?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, they apply practically across the whole range of flats and offices which are occupied by Government officers and by Government offices in the private sector.

HON CHIEF MINISTER:

I can recall immediately the renewal of the leases we had in Leon House where we have the Income Tax and one or two other offices where the current lease came to an end recently and we have negotiated for a shorter period in the hope that we need not carry on occupying those premises.

HON G T RESTANO:

When did the lease expire? Is there not a moratorium at the moment, Mr Chairman?

HON CHIEF MINISTER:

I think it was a matter of an option within the lease, I do not know. I am sure that this was looked after by the Attorney-General. I am trying to be helpful, I am not trying to create complications otherwise I would keep my mouth shut.

HON G T RESTANO:

But I would have thought that if there was a moratorium that should have applied also to these cases.

HON CHIEF MINISTER:

Not if you have an option for a lease to renew. In any case it need not deal with all the time of the moratorium, it may cover periods before the moratorium.

On a vote being taken on Sub-head 7, Rents of Flats and Offices, the following Hon Members voted in favour:

The Hon I Abecasis
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 Zammit
The Hon D Hull
The Hon E G Montado

The following Hon Members voted against:

The Hon J Bossano
The Hon A J Haynes
The Hon P J Isola
The Hon A T Laddo
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 A J Canepa

HON A J HAYNES:

On Official Passages. What does "Provision for official visits to the UK insufficient", mean? Does this mean, Mr Chairman, that Government did not anticipate so many passages or that the money that they had for the passages that they knew were going to take place was insufficient, I am not quite sure?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

That is correct.

HON A J HAYNES:

Which is correct?

MR SPEAKER:

You have been given an answer to your question. I have no doubt what the answer is and if you are in-doubt you can ask a supplementary.

HON A J HAYNES:

Have I been told yes?

MR SPEAKER:

You have asked whether it is a fact that they did not provide and you have been told that they did not provide.

HON A J HAYNES:

I asked, Mr Chairman, whether the £2,000 was as a result of air fares going up or as a result of more people travelling.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

This relates totally to the fact that there have been more visits as opposed to an increase in fares. I think, Mr Chairman, I can vouch for that personally.

HON A J HAYNES:

I notice, Mr Chairman, that in previous years extra visits have resulted in funds which were not brought before the House being sanctioned at a later stage and this was brought up before the Public Accounts Committee and in fact in the Public

Accounts Committee we were told that it was almost impossible to gauge beforehand when extra visits take place. How is it that this time they have gauged and been able to account for it beforehand?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, precisely because of the points raised in the Public Accounts Committee.

HON A J HAYNES:

How was this done, that is what I want to know?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, I assumed that the Controlling Officer is keeping a closer watch on his vote.

On a vote being taken on Sub-head 80, Purchase of Office Furniture the question was resolved in the affirmative. The Hon J Bossano voted against.

HON J BOSSANO:

I believe that there is spare furniture and spare office capacity but not spare bodies within the Government service.

HON CHIEF MINISTER:

I am really surprised that the Hon Member should say that there is spare office and spare furniture. He has obviously not been to the Secretariat and I think I owe it to the staff that are putting up with these conditions. If they were industrialists they might have been on strike already. When the Deputy Governor arrived and visited the offices he made a report that made everybody shake in the Secretariat. The new Governor when he visited the offices the other day told me personally that he had never seen, in respect of some offices, not all, more appalling conditions under which people worked and we cannot carry on doing that, that is why we are going to refurbish the old girls' school at the Convent, it shall cost money but it is the best that we can have because it is a matter of refurbishing and so on the Loreto Convent. We are not taking over The Convent for the time being. The point is that there is no room in some places for furniture. The people are cheek by jowl in very bad conditions and when you have a new commitment you cannot do with what you have and I can assure you that there is every intention of exercising the utmost economy of making do with desks and so on in the Secretariat but there simply comes a time when you cannot open another office and not provide it with proper furniture.

HON P J ISOLA:

The Hon Mr Bossano has voted against purchases of furniture for any department and I can only surmise that his objection in this case is the same as before, he does not want a British Nationality Office so he is determined there should not be an office and it should not be furnished. We agreed with this particular item, obviously, because it is for the British Nationality Office.

MR SPEAKER:

With respect to the Hon Leader of the Opposition and the previous speakers, I am getting more and more confused. We are now having debates on how people vote.

HON G T RESTANO:

On Sub-head 81, Enquiries into Departmental Functions and Efficiency. Can we have more details on this particular amount, Mr Chairman?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, the additional provision sought basically divides itself into two. There is a substantial element which is more than half the amount required which is a specific consultancy fee payable to the Industrial Society who employ the gentlemen concerned and that is a fixed specially reduced but a fixed rate which runs into a figure of £1,250 a week. The balance relates to the salary and travelling expenses of the Chairman himself.

HON G T RESTANO:

Did I understand the Hon Member to say that it is £1,250 a week to the Industrial Society? For how long is this payment?

HON CHIEF MINISTER:

It was done originally for six weeks and I think it has been extended for another six weeks.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, the standard fee for any consultant, and we have had quite a number of consultancies ourselves, is £1,000 in terms of salary for the individual so obviously a fee payable to a national society or association in the region of just over £1,000 in the context of £1,000, is not particularly abnormally high.

HON P J ISOLA:

But the £1,200 is to the Industrial Society. On top of that a salary has to be paid to the Chairman.

HON CHIEF MINISTER:

No, hotel expenses and travelling.

HON P J ISOLA:

How often does he travel?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, I understand it is almost weekly between London and Gibraltar.

HON P J ISOLA:

Well, Mr Chairman, cannot somebody suggest that this Committee sits right through and we do not have this man having to come once a week, £250 every time he flies to Gibraltar?

HON CHIEF MINISTER:

I am afraid that the progress that can be made in that Committee cannot be determined. If it were employing him for a period and sending him away it would be different. He has to steer both sides of the Committee. I am sure Mr Bossano will help me in this, if I get it wrong. Proposals are made and the staff side have to consider them and the management side consider them, then they must come to be reconciled. A lot of papers are circulated relating to conditions and so on. The conditions under which the Industrial Society after looking round everywhere as I have said in this House many times, how many times I tried to get a Chairman and how a former Governor Sir William Jackson, helped me to try and get one through the PSA and we were not able to get him until finally we found somebody who could do it, and it was conditional on, I do not know whether it is a weekly or a fortnightly trip that he does, it all depends, because he is doing something else and that is why the condition was put. It is not that he came on an assignment and he stays here until it is finished. The point is that he has other commitments and the Industrial Society was able to release him for a certain time. I think his time here is also conditioned by his other commitments in the United Kingdom and this was all made very clear at the beginning. Very reluctantly because it looked quite expensive and it looks doubly expensive now because his period has been extended, we had to agree with it because it was essential that we got this right from the beginning. It is not a vote that we come here with any glee to ask for it, it is just a matter of fact that

that is what is happening and no amount of accelerating can be done in order to cut the nature of his work has much as you will not be able to tell a doctor to operate quickly if the nature of his job had to be done at a different pace.

HON W T SCOTT:

Mr Chairman, I am a bit confused. I want to make sure that I get it absolutely right. I think the Hon Acting Financial and Development Secretary said there was a consultancy fee charge of £1,200 a week and then later on the Hon the Chief Minister was saying six weeks and then another six weeks covering a period of twelve weeks all told. Is this a £1,200 a week charge covering the twelve weeks periods whether the consultant is here or not here? Is he still paid that even if he is not in Gibraltar?

HON CHIEF MINISTER:

Let me tell the Hon Member what I remember, and the Financial Secretary will correct me if I am wrong, because I have dealt with this myself because of the nature of this matter. It was estimated that the first consultancy all covered, all expenses would cost us £23,000 and it has been extended for a similar period or an extra week, I forget now, that is why it is £54,000. I am told that the unions are loath to meet more than once a week in this matter because of the work that they have to prepare for the meetings.

HON P J ISOLA:

Mr Chairman, if this £23,000 is for six weeks it means that having the privilege of this man chairing a body is almost £4,000 a week which it is costing public funds. I would have thought that the staff side and the union side should be aware of the cost to public funds and an effort should be made to bring matters to a conclusion one way or the other. It is a duty to the public, we are not just talking of the Generating Station, but it is a duty to the public owed not just by the Government or by the Opposition but by the staff side and by the union side. We are talking of almost £4,000 a week for one man to meet this body once a week or even once a fortnight. This is scandalous, Mr Chairman, that the public should be paying these enormous fees because somebody is too busy to have a meeting or somebody else has not got the time to look at papers.

HON J BOSSANO:

If the Hon Member will give way. Then he should not have voted the money in the last House, he should have voted against that item.

HON P J ISOLA:

We voted in favour of it because we want a resolution of the matter; of course we do, and we took a responsible attitude. We were told by the Government this is the way that we feel it can be done and with the greatest respect to the Hon Mr Bossano, the irresponsible attitude was rather his. He said to the House, I think at the time: "I do not vote for this money because we do not need somebody from outside to solve them". What I am saying is we have got somebody from outside for whom we are paying a lot of money and who I am sure both the staff and the union side and we all think is somebody from outside to be an independent chairman and apparently he cannot get agreement so if he cannot get agreement I am quite certain there would not have been agreement without this man being there but there is a limit to which this House can be asked to vote funds merely and simply to keep people almost on a jolly, Mr Chairman.

HON CHIEF MINISTER:

May I try and keep this on a clear level. First of all, I think the Hon Mr Bossano voted against this because he votes against all consultancies because he says that we do not need to bring people from abroad. I wish we could dispense with consultants, generally, not with general consultants but we haven't got the know-how in many areas and this may well have been one in which we could have found one, in fact, as Hon Members know, I spoke to four people of calibre who would have taken it, I don't know what they would have done of it if an expert is taking so long. It is also fair to say that it is not the number of the meetings only that he is here for and because he is an independent chairman I am not going to make a plea for any one side to hurry the work. I would say that it is in the public interest, generally, not only because of the cost of the consultancy because of the matters that have to be resolved that the problem should be solved as quickly as possible and therefore the least expensive possible and therefore it is in the interest, and I am not taking one side or the other, it is in the interest of the Government that both management and union might, if they are not already doing so, might give the matter a sense of urgency if only because of the cost involved but I would like to stress that it is not just a question of his sitting there for a meeting and talking and going away. He has got to talk to one side, he has got to talk to the other, he has got to draft conditions, he has got to draft proposals and talk to the people themselves and, in fairness, I should also say that this man has been by agreement with the union, by full agreement with the union, and if I am wrong perhaps the Hon Member who is a member of the Committee will correct me, by agreement of the union the man has been allowed to talk to individual people one by one at the Station and has been given a completely free hand to deal with the matter in a rather sensitive area in a completely free way. In that respect I think we ought to be grateful that the unions have agreed that that be done because then it

cannot be said that it is the union leadership or not that is putting the difficulties. This man has had access and I understand that he spends a lot of time, a lot of his expensive time, in the King's Bastion Power Station talking individually to people, explaining what is going on with the Steering Committee and so on. But I do agree that we deserve a resolution pretty quickly.

HON P J ISOLA:

Mr Chairman, all I would say to that is that as far as we are concerned we are going to vote for this money but we vote for it with this great reservation that we think that there is a need to consider the public interest in this matter. We are very happy to see that the chairman is doing his work properly and we would very much like a resolution of the matter but we are not fools, Mr Chairman, we have read the report, we know the problem, we know the issues and I would have thought that if both sides met with a sense of urgency and with the realisation that there must be a solution and got down to it, then I would have thought that the problems that we have seen, we know the problems that are there, there should not be really that much difficulty in coming to a resolution in a way that is just and fair to both sides and not least of all to the public in Gibraltar who have to foot the bill and who know what they are paying for all this because they have to pay the electricity bills at the end of every month, they have to foot the bill. I think the public deserves to be treated and to be given a fair deal by both the Government and the staff side and we are voting all these funds in order that there should be a fair deal, that there should be a resolution of the problem and that the Generating Station should be run in a proper manner. But there is a limit, Mr Chairman, in my view, and we are trying to be as fair as we can, but there is a limit to which the House can be asked to just foot the bill of a Committee that goes on sitting and sitting and sitting and sitting when we know the nature of the problem and we know that it is not a problem that requires more time than the Lisbon process. It is a problem that I would have thought can be fixed and can be sorted provided there is goodwill and a genuine will to come to a settlement, it should not take, Mr Chairman, all the time that it is taking, all the staff that are involved, all the paperwork that he has been doing, when we feel the issues are fairly simple and straightforward and there is a limit to which, I think, the House can be asked to just foot the bill. So we are going to vote for this because we disagree with the Hon Mr Bossano, it is quite obvious that a man was required, it is quite obvious somebody of stature was required to try and bring a settlement and we have no hesitation in voting for the money but there is a limit and I hope we are not going to be asked to vote any more money under this Head.

HON J BOSSANO:

Mr Chairman, I do not want to be drawn into revealing any details of the work of the Committee because obviously it is not my function to report to the House on what goes on in the Committee and I am there mainly, I think, because the Enquiry Report recommended that I should be and because the decision taken by the union was that the union did not wish to be accused by anti-union elements in our community of being deliberately obstructive but obviously the union did not commission the enquiry, the union did not accept the report because the report was to the Government and not to the union, the union agreed to take part in the machinery that was set up but I am there for that specific reason, the people who really count are the people who are working in the Generating Station and who are selected by the staff there to represent them. All I can tell the House is that from my experience of being involved in this side of, probably negotiations isn't the right word because it is not really negotiations what is going on, but in this type of Committee work, the speed at which it is moving may appear slow but in my experience compared to the work I have done in similar capacities for the union in the last ten years, it is moving faster than in any one that I have been in before and I cannot accept that we should measure its speed by what it costs. If it was a chairman who was unpaid then, presumably, it would not be considered slow that it was meeting every week but I can assure the House that one meeting a week where there has to be an analysis of what is being discussed and that has got to be explained to people and then what people think of that has got to be brought back and that has got to be taken by the other side and then the answers have got to be brought back, that that should happen on a regular basis every week is not unusually so by contrast to, for example, the eight years that it took to negotiate the pension scheme for the MOD where they had people coming out from UK, obviously, but we did not have to vote the money, it is going very fast. I am not saying it is going to take eight years but I think one has to have a sense of perspective. I am voting against the amount of money for the same reason that I voted the last time and not because I consider that the person selected is unsuitable, that has nothing to do with it, the issue is not that.

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

The Hon I Abecasis
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 E G Montado

The following Hon Member voted against:

The Hon J Bossano

The following Hon Member was absent from the Chamber:

The Hon A J Canepa

Sub-head 81, Enquiries into Departmental Functions and Efficiency was passed.

Item 8, Head 22 - Secretariat was agreed to.

Item 9, Head 24 - Tourist Office (1) Main Office

HON MAJOR R J PELIZA:

I wonder, Mr Chairman, if the Minister could give me an account of how the money was used in the advertising in Denmark and Germany?

HON H J ZAMMITT:

Mr Chairman, it may be recalled that Sun Air was the firm that took up charter operations from Copenhagen to Gibraltar having commenced the first flight on the 21st June. I think I need not remind the House that it was four days before a non-event. It was then intended to have had two flights per week but because the frontier did not open on the 25th they reduced it to one flight per week which went through from the 21st June up until the end of August. The money was spent mainly in advertising by procuring our Tourist Office brochures in the German language which covered Denmark, Germany and Sweden and advertising in local papers in those three areas. I should say, Sir, that although the flight came to an end at the end of August they were obviously stopped on account of the non-opening of the frontier as they could not use it as a two-centre holiday but there was every intention with or without an open frontier to restart it next April and of course the recent information we have had is indicative that they certainly will take it up next April and they are well stocked up with literature on Gibraltar in the languages spoken in that particular part of the world, Scandinavian countries in particular, so there will be no need to spend further money in advertising although of course we would willingly do so if we saw that it was of some advantage to Gibraltar's tourist trade.

HON MAJOR R J PELIZA:

Can the Minister state to what extent it was successful between the months of June and August?

HON H J ZAMMITT:

Mr Chairman, probably we are privileged in having a Financial Secretary who is also a Statistician and they work out things that I do not totally understand. What I can say is that the flights that we had produced 5,684 tourists to Gibraltar, that multiplied by £10 per person in hotel accommodation would give you £56,840 and then they estimate 5,684 again by £10 in expenses coming to a grand total of £113,680 and then they come to a formula of a contribution to the gross national product of, say, 15% which comes to £17,052. So, all in all, it seems to have balanced very favourably or should I say that the scales have tipped favourably towards our expenditure.

HON MAJOR R J PELIZA:

In fact, it is encouraging to try and develop that market particularly if the frontier were to open.

HON H J ZAMMITT:

Very much so, Sir.

Item 9, Head 24 - Tourist Office was agreed to.

Item 10, Head 20 - Treasury was agreed to.

Schedule of Supplementary Estimates Consolidated Fund (No 3 of 1982/83) was agreed to.

Schedule of Supplementary Estimates Improvement and Development Fund (No 3 of 1982/83) was agreed to.

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

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

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

The House resumed.

THIRD READING

HON ATTORNEY-GENERAL:

Sir, I have the honour to report that the Companies (Amendment) Bill, 1982; the Education (Amendment) Bill, 1982; the Trade Licensing (Amendment) (No 2) Bill, 1982; the Traffic

(Amendment) (No 2) Bill, 1982; the Group Practice Medical Scheme (Amendment) Bill, 1982, and the Supplementary Appropriation (1982/83) (No 3) Bill, 1982, have been considered in Committee and agreed to, in the case of the Companies (Amendment) Bill, 1982; the Trade Licensing (Amendment) (No 2) Bill, 1982; the Traffic (Amendment) (No 2) Bill, 1982; the Group Practice Medical Scheme (Amendment) Bill, 1982, with amendments, and in the other cases without amendments and I now move that they be read a third time and passed.

Mr Speaker put the question and on a vote being taken on the Companies (Amendment) Bill, 1982; the Education (Amendment) Bill, 1982; the Trade Licensing (Amendment) (No 2) Bill, 1982; the Traffic (Amendment) (No 2) Bill, 1982, and the Supplementary Appropriation (1982/83) (No 3) Bill, 1982, the question was resolved in the affirmative.

On a vote being taken on the Group Practice Medical Scheme (Amendment) Bill, 1982, the following Hon Members voted in favour:

The Hon I Abecasis
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 Zammit
The Hon D Hull
The Hon E G Montado

The following Hon Members voted against:

The Hon J Bossano
The Hon A J Haynes
The Hon P J Iscla
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 A J Canepa

The Bills were read a third time and passed.

The House recessed at 5.15 pm.

The House resumed at 5.55 pm.

PRIVATE MEMBERS' MOTIONS

HON. G. T. RESTANO:

Mr Speaker, I beg to move the motion standing in my name which reads: "This House calls on the Government to reverse its decision to charge for local telephone calls in view of:

- (1) the excessive increase in charges which the Government is imposing on the people of Gibraltar
- (2) the unacceptable extra burden on elderly persons who need to rely so heavily on their telephone as their life line
- (3) The intolerable and totally unnecessary interference in the Gibraltar way of life which has always been the close and frequent communication between families and friends and which the imposition of such charges will surely disrupt
- (4) the serious extra imposition on the private sector which, of necessity, relies heavily on the telephone service to carry out its business activities and which will undoubtedly and unfortunately pass on these charges to customers making Gibraltar more expensive for Gibraltarians and less competitive in the tourist market".

The introduction, Mr Speaker, of charging for local telephone calls coincided with the introduction of International Direct Dialling. There is no doubt that Gibraltar needed International Direct Dialling very badly. Without it, as far as telecommunications were concerned, Gibraltar was really in the backwaters of telecommunications in Western Europe. In fact, I think we were probably one of the only communities in Western Europe who didn't have this service. Personally I was always a very serious advocate of the introduction of International Direct Dialling. I remember the very first question I ever drafted for this House in 1976 was in fact asking that direct dialling should be introduced. Since then, of course, I have quite persistently put down questions in this House asking for that service to be introduced. We certainly welcomed from this side of the House the Government's eventual decision to bring direct dialling to Gibraltar. We have always felt that that decision should have been taken earlier because Gibraltar so badly needed that service for business, to build up our finance centre and for the people of Gibraltar generally and it gave a very bad impression for Gibraltar not to have had that service. However, better late than never. My disagreement entirely with Government is that they should have taken the opportunity of this very welcome addition to Gibraltar to take the advantage and introduce charges for local calls. We certainly never envisaged when we asked for International Direct Dialling that local calls should be charged. IDD, I think, cost in the region of about 10m and we feel that that expense should have been met and

should be met by the users of IDD. The repayment, we feel, should be spread out over a number of years and be paid by those who use the expensive IDD equipment. So instead of having local charges and really making what I would consider a quick return for the outlay, like I suppose in most high cost programmes, the cost has to be spread over a number of years and if necessary even over a number of generations and certainly not to impose high charges for local calls. The result of the local calls has in some cases been pretty horrific. People have been receiving over the last month the charges that have been incurred in their new meters and in frequent cases I have had complaints from people coming up to me and saying that the bills range anywhere between £6 and £50 per month and that is a very big sum indeed. I remember when the decision was taken to introduce these charges, we were told that they were fractionally cheaper than in the United Kingdom but the increases in the United Kingdom were a very gradual process over many years. I remember myself when one used to pay 2 old pennies for a call and if the fraction of a penny is greater in the UK than it is here, it has been a gradual process and not a sudden imposition which I feel has been very unfair to subscribers. I think, too, that the necessity for charging in Gibraltar has not been the same as in the United Kingdom, I think in the United Kingdom perhaps because the charges were introduced such a long time ago, people were not so accustomed to the heavy use of the telephone and therefore I really think that there was no need to charge for these calls. The people who have been the most affected of all have been pensioners and the elderly people. These people rely tremendously on their telephones for communication with their relatives and friends. Sometimes they rely on their telephones for supplies. Old people who live alone and who cannot go out of their homes for whatever reason, they are unwell, disabled and so on, they rely on their telephones to get their basic supplies. I think there are quite a few of these people, after all, we see the housing that has been done by Government has included a lot of bedsitters and a lot of these bedsitters are for elderly people who, perhaps, have been changed from a larger house to a smaller house which is more to their requirements and I think the need has been there and that is why I think Government has been building all these bedsitters. They rely on their telephones to call their doctor and this at that age, when they are elderly, is when they most require to call doctors. Some of these categories of people are not very wealthy and they have the added problem of cost. I think the result has been a very cruel one. It has created an anxiety on these people they don't know what to do, they don't know whether to keep their telephones, whether they will be able to pay for them, they have to take the decision that perhaps if they may feel they cannot pay for their telephones to get rid of them and then the anxiety of thinking: "Well, if I don't have a telephone and something happens to me what shall I do?" And

sometimes when they do keep their telephones what happens, they have got to pay, they have got to economise on other necessities, they have got to economise in other areas of their lives and their lives are being disrupted by having to pay for local calls. I said earlier that it was unfair on the grounds of excessive charges. It is unfair also on other grounds, too. Since time immemorial in Gibraltar it has been the practice and the custom for people to use their telephones a lot. Mothers like to telephone their daughters in the morning, brothers and sisters like to talk on the telephone, parents like to call their children and talk to their grandchildren, families generally have been in the habit of talking to each other on the telephone, all categories of people. I agree that sometimes they use them a bit too long, conversations a little bit too long. It is archaic, perhaps, that people were able to use their telephone free of charge but it is one of the last exceptions, one of the last little pleasures of life where we were a little bit different in Gibraltar, to everywhere else. The family life in Gibraltar has always been a very closely knit one and I think that telephones, and particularly because it was a free service, was able to cement the closeness. With the introduction of the charges, not, thankfully, that I think there is going to be any disunity on account of this, but I think there is bound to be less communication between families and friends and I think that is sad. There is bound to be less communication because people will not be able to afford to pay the charges that are being levied. I think it is particularly sad that these communications are going to be eroded when one thinks of certain sections of the community who are stressing, and very rightly so, the importance to keep family life together. The private sector relies heavily on the telephone service. Municipal charges, generally, are much higher in Gibraltar than in the UK, for example and of course this applies not only to the private sector but also to the whole of the community. We pay more for our electricity charges, water is more expensive, rates, income tax, and the free service of telephones was one of the only perks. It is archaic perhaps, as I said before, but one of the nice things that we had in Gibraltar and people didn't have elsewhere. The private sector, too, rely heavily on the telephone service for their business activity and they will have to pass these charges on, they will have to pass these charges on to the consumer and the result of passing on these charges to the consumer is obvious. It is going to make Gibraltar more expensive for the Gibraltarians apart from the fact that they are having to pay themselves more but they are going to have to pay a little bit more from what they buy in the shops and it will also make Gibraltar less competitive in the tourist market, for tourists coming to Gibraltar. So, Mr Speaker, in introducing these charges the effect has been a harmful one. What the Government should have done is to have spread the cost of the installation over many years and in

that way the Gibraltarian way of life would not have been disrupted. I am going to appeal to the Chief Minister, I am going to appeal to his better judgement, I say to Sir Joshua: "Be magnanimous, be generous to the people of Gibraltar as they have been to you over 40 years at election time and do away with local charges. After all, he is the one who ultimately decides - and give the people a Christmas present, it is the right time of the year, give them a Christmas present that they richly deserve". I commend the motion to the House.

Mr Speaker proposed the question in the terms of the Honourable G T Restano's motion.

HON DR R G VALARINO:

Mr Speaker, Sir, the point raised by the Honourable Member certainly bears no substance. He is totally erroneous and I intend to show how much he is mistaken on all the points he has put forward in his motion. With regard to the first part of the motion in which he says that there is an excessive increase in charges which the Government is imposing on the people of Gibraltar, I must remind him that there have been no increases in rental charges since April, 1980. Thus, for two years, rentals, both for consumers and residential subscribers, have remained the same. Furthermore, during these two years the Telephone Fund has received no contribution and has carried on a deficit from 1981 until 1982/83 and going on to 1983/84. Therefore, this really means that in two years the people of Gibraltar have contributed to the telephone service practically nothing. To come on to the subject which he has brought up, the extra revenue derived from local metered calls. The extra revenue for the month of October is £12,000 or just under £12,000. Since there are 7,000 lines at present this works out to an average of £1.71p per month extra revenue. He has mentioned that he has seen subscribers receiving bills of £40 and £50. I would like to ask him whether he has ensured that these monthly advice notices which give not only the number of units used for local and international calls, that he has ensured that this money does not cover the international calls which these people have used because the figure given at the end of the month covers not only local calls but all calls going through the IDD programme. Therefore, I can hardly see how the Honourable Member could have seen bills of £50 or £60 when the total amount of revenue for 7,000 subscribers is £12,000 which is approximately £5.14 per quarter and I would consider this hardly an excessive increase on the people of Gibraltar after almost two years. I will now deal with the second point, the unacceptable extra burden on elderly persons. This is not true. The allowance of 120 units per quarter will benefit the low calling subscribers and, in fact, old people are low calling subscribers and will in the main reduce their bill

substantially since in the future they will not be subsidising the higher calling subscribers and large businesses. I mentioned, in answer to Question 203 of 1982 and I believe this question was asked by the Honourable Member opposite, that computerisation of telephone accounts would make it possible to monitor monthly units and would enable Government to consider rental reductions at an early date. Old age people who continue to receive the free call allowance and whose rental may well be reduced in the future, will in the main pay less for a better telephone service than before. Let me add as well that I have talked and I have acquired from a certain number of old age people, in fact, pensioners, I have talked to them, and I have found out that they have not even used the 40 units in the month of October which tends to show not only that they are careful, not only that they are low calling users, but that there is no truth in the second part of the motion of the Honourable Member who refers to the unacceptable extra burden placed on elderly persons. The third part of the motion which the Member has put forward has also been exaggerated out of all proportion. There is no doubt that Gibraltar is a small closely knit community, very much unlike other European countries, and in my opinion local call charges do not in any way disrupt our particular way of life. Here I would like to refer the Honourable Member to the press in general. How many letters has he seen in any of the newspapers supporting this particular idea of his? The last part of the motion which is the longest part has also been taken totally out of context. He has mentioned IDD. Well, businesses have already benefitted to a large extent from IDD, and this is very important. The system of metering local calls only places the onus of responsibility on the user and Western administrations have replaced flat rate systems to time charging which is the fairest method if people then pay according to use. This is generally recognised as being the most equitable form of charging. In addition, it helps to smooth out peak demands at various times of the day and better use is made of the equipment. Taking the motion as a whole and the concept that Government should reverse its decision to charge for local calls, this is totally unacceptable. The correct and proper approach is to look at the revenue obtained from local calls charging and also any revenue increases that may occur in later months from international traffic, monitor this and judge accurately and advise as to the size of possible reduction in rental to both businesses and domestic consumers in the future. This is a far more equitable and democratic process, far more in keeping with our socialist thinking. Finally, since there is not much to say in this motion which has been moved entirely by the Honourable Member as a political ploy and nothing else, there is no doubt that if he would be in Government, God forbid, he would most certainly consider this motion as being totally without substance and totally, if I might use

the words, up the wall. Finally, let me say that Government does not agree at all with any of the points raised in the motion by the Honourable Member and will be voting against the motion in all its aspects. Thank you, Sir.

HON A J HAYNES:

Mr Speaker, I am addressing myself to the motion. I shall make a small contribution. The first part of the motion which calls for Government to reverse its decision to charge for local telephone calls on the basis of the excessive increase in charges which the Government is imposing on the people of Gibraltar remains unanswered, in my submission, by the Government Minister. In answer to a question in the October meeting of this House we were informed that as a result of unit meter charging for local calls and the continuation of the present rental, the Government anticipated an increase in revenue for a Quarter of £39,000. As at present it seems as though the figures are largely as they predicted. We have had £12,000 for the first month but in my submission, Mr Speaker, that overall estimated increase in Government revenue is conservative. Perhaps, as Government predicted, the increase in the first quarter will be in the region of £39,000 or £40,000. So, Mr Speaker, I believe that that is symptomatic of the great reserve which the people of Gibraltar have exercised in the use of the telephone and this also is reflected in the third part of the motion which refers the Government and this House to consider the invasion into what has become a culture, a Gibraltar culture, namely, the use of the telephone. I do not see why the Chief Minister laughs, I think his little paper has a telephone conversation of a gossip column at the back, has it not? The Chief Minister is perfectly aware of the importance of the telephone in Gibraltar life.

HON CHIEF MINISTER:

To talk about invasion of culture is taking matters to the extreme as the Honourable Member does on everything he touches.

HON A J HAYNES:

Well, we all know what the Government thinks on culture when they don't give the money to the

MR SPEAKER:

Order.

HON A J HAYNES:

If the Chief Minister wants to cross swords he must be prepared to expect a reply. As I said, Mr Speaker, the increase has for the first quarter been within the ambit suggested by Government i.e. £40,000. We are saying, Mr Speaker, that the figures are correct even in the circumstances where for the first quarter the Gibraltarian people are being very, very economic in the use of the telephone and the long term effect is, Mr Speaker, that either the Gibraltarian people will continue to use the telephone partly, and therefore only result in an increase of £40,000 to Government coffers or, Mr Speaker, after the first initial fright has passed they will revert once more to their customary usage of the telephone and then the Government will, in my submission, be confronted with an embarrassing increase in revenue and I would refer this Government to the British Post Office and their embarrassing surpluses as a result of high telephone charges and other communication services for which they have a monopoly, for which they can charge whatever they like and which they have overtaxed and which has now become a source of embarrassment. The profits are not warranted in conscience. We do not support a Government which finances its failures by overtaxing its monopolies. We believe, Mr Speaker, that that must be the reason behind the Government's introduction of local meter charges. They have thereby to raise enough money to sort out more difficult areas where they may be criticised at a later stage. We believe the effect is, Mr Speaker, that the Gibraltarian is being obliged to pay more money than is required for the rendering of the service and that I am afraid is not socialist policy whatever the Government benches may suggest it is and at the same time, Mr Speaker, they are invading an established norm. Perhaps the Chief Minister is accurate when he says that I exaggerate when I say that it is a form of culture, I believe that that is a form of culture, Mr Speaker, but nevertheless I would accept the Chief Minister's criticism and re-phrase it and call it an established norm, Mr Speaker. I don't think that a case has been made by this Government to warrant a changing of that norm. And then, Mr Speaker, if one considers the other aspect, the other points which are raised in this very extensive motion, which have not been answered, Mr Speaker, it seems as if the Government does not want to have a House of Assembly. Their attitude is that the motion is embarrassing, let us get through it quickly, no one talks, the Minister replies, two or three words, finished. And the people, Mr Speaker, are very concerned at the charges raised on telephones. It is a matter worthy of public debate and we do require answers to the points raised. Mr Speaker, it has been brought to my attention that certain elderly persons who could afford the rental on their telephone and who live their safety line there, their only communication with friends and family to

purchase this and that, to bring them this medicine, to bring them this sort of food or whatever, over the telephone. These people find that they cannot pay those for the unit meter charging and the rental and as such these elderly persons are having the quality of their lives eroded and that again is not what a socialist Government stands for and certainly not when we are talking about an elderly person sector of the community. We already know with what cynicism they treat the elderly persons of Gibraltar, to wit, their stubborn refusal to accept our request for removal of taxation on the elderly persons pension. Mr Speaker, lastly the private sector. Again it seems as if the private sector are being required to pay for the sins of Government. A private sector which today, Mr Speaker, is facing a very serious threat to survival. It has the increased burden of responsibility in the event of the dockyard closure and we will all expect the private sector to rally round and help and maintain the economy and provide a substantial base for diversification, and we have the other threat, which is also a potential benefit, in the opening of the frontier. We all know that an open frontier could be a launching pad for the private sector but at the same time, Mr Speaker, the private sector has been atrophied by 15 years in the cold and the re-alignment and the re-acceptance which will be required of the private sector to meet the competition, to meet the demands in the event of an open frontier is considerable and that, Mr Speaker, requires capital. We have already seen in the last few years certain firms in the private sector going under. We do not believe that if Government was making ends meet with the rental system that they should now impose on the private sector the burden of unit meter charging. This is a very serious matter, Mr Speaker, and I do hope that the Government will in reply to this motion answer these points one by one.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, I feel I have obviously to comment on this motion because it concerns the finances of Gibraltar, or part of the finances of Gibraltar, and I have a certain responsibility for this. I will obviously will not comment on the social aspects of the motion, I think that is a political consideration more than anything else. First of all, I would like to refer to a point of technical detail. I think that the question of repayment of the capital borrowed for the IDD coding which was just over £1m, cannot be examined or considered in terms of arranging a soft financial repayment basis for the Telephone Service Fund, for example, I do not think you can spread it over generations. I think one has to be realistic and take account of the fact that, if anything, of all the four services which the Government administers, the telephone service is perhaps the one with the highest technology and the most rapid change. We have borrowed this

money largely on export credit and the repayment of a loan which is over a period of 8½ years and we are spreading the burden to the consumer over the life of the equipment which is at a maximum of 15 years. If we were to pursue what I would call bad accounting over generations, and a generation is 30 so if you take two, at 60, obviously the cost would be fairly low on the capital charges on the fund but as we replaced telephone systems in the future over those 60 years we cannot run away from the reality that there will be more and more costs on the capital side and in effect we would be producing the same result, making a certain assumption about rates of interest and inflation but basically we would be doing the same thing. I think one has to follow good accounting practice and repay the cost of the equipment by authorising the cost over the life of the equipment. I was going to concentrate on two aspects of the motion. The first is the reference to excessive increase in charges. I think the first point is that it is too early to actually conclude that. What I can say is that on the basis of the figure which was revealed by the Minister for Municipal Services of £12,000 income from local metering, if we take it as an average which I am not inclined to but just for the sake of argument at this point in time we take it as an average, the estimate for the year, £82,000, will be short by £10,000, so we have not been conservative. If we also examine that £12,000 figure for the month of October, it fits in fairly closely with the assumptions made by the Government in establishing what sort of charges should be levelled for local metering and for international calls and it confirms the decisions that we had to make. Obviously we were very much in the dark moving into a new market, so to speak, but we based ourselves on the experience which has been felt in other countries in the world, in other words, we took the level of calls, the rate of calls, and we made assumptions about the fall in demand which was inevitably to follow and we arrived at our figures of what would be the average bill for a domestic consumer and what would be the average bill for the business consumer and at the moment, on the October figure, it is clearly slightly lower than the figure which we had estimated, but, obviously, a month, I think, it not enough to work on. I think there is a very clear contradiction on the point made by the Honourable Mr Restano in saying that the burden of the extra cost should be met by the users of International Direct Dialling, that there should be no local metering at all. I say there is a contradiction because in his fourth paragraph he refers to the serious extra imposition on the private sector and in the first he refers to the excessive increase in charges. If we were to pass on the increase in local metering to international calls and working on the projected deficit for the fund, we would have to practically double all international charges. If we do that then we would still be imposing an extra, I am not going to put adjectives, an extra imposition on the people of

Gibraltar and particularly on the private sector because if we go exclusively on international calls we would be placing a proportionately higher burden on the private sector than we are doing at the moment by splitting it between local and international. Therefore the effect on prices, the effect on Gibraltar's competitiveness, will be even greater. I think that is an important point having regard to what the Honourable Mr Haynes was saying. In other words, that in looking at the whole question of charges for telephones we must look at the economy, the current threat to the economy, the importance of expanding the economy. I would say that by setting a reasonable level of charges for both local and international calls, we are obviously imposing an extra burden, there is no doubt about that, but on the other hand we are spreading it reasonably evenly and allowing the private sector in particular to obtain the benefits of making automatic calls all over the world, in other words, there is a benefit which has to be considered and that is that if business can reasonably, and I say reasonably because it would be possibly unreasonable if you were to double charges on international calls, but if businesses can reasonably phone worldwide and carry on their trade, if we can get banks to come for finance centres and obviously a finance centre cannot really survive without IDD itself, if we provide that kind of service then I would argue that to an extent we are reducing costs because by providing the business sector with a more efficient service we are helping to speed up their rate of activity and thereby reduce the unit cost. The impact on the cost of living is not just a straight arithmetic addition of pounds and pence in the bill, we have to look at the other side of the equation and how the service itself assists the business in carrying out its trading activity. It is difficult to quantify but I think that one has to present both sides of the equation. If I referred specifically to the impact on the cost of living I can say that on the basis of the projections which we have and which are being confirmed so far by the October rental figure, the estimates for the increase in the Index of Retail Prices for domestic consumers will be .2 of a percent. I don't think that that is excessive, Mr Speaker. Obviously it is much more difficult to assess the impact in terms of the effect on prices and how businesses will adjust their prices. But if we take the argument in a fair manner I think one can safely say that telephone costs cannot account for a substantial percentage of turnover. One has to look at it in proportion. My projection on the percentage increase on a business bill is well over 50% over the previous estimate but that is an additional £100, £120 a quarter for a business. Obviously the impact would vary from business to business. I would just like to say in that context that unlike the domestic consumer who would also have to meet an increase if we were to pursue the proposal from the Honourable Mr Restano, unlike the domestic consumer who feels the impact directly and in totality, the business consumer can offset the additional cost

against his tax return or his tax liability rather. If we look realistically at the facts, the facts that there is a deficit, the facts are that we have to repay £1m over the life of the equipment and if we don't want to penalise one consumer unfairly as opposed to the other, then I think that one has to charge for local calls in fair measure and I think that the statement by the Honourable Minister for Municipal Services is a genuine one but one has to monitor this and see what the impact is going to be at the end of the day and then it will be a matter for political judgement against financial realities as to whether the charges should carry as they are or whether the free call allowance should be higher or not, whether the rental should come down, there are all sorts of permutations and combinations but I think that if you attack the principle of local metering then you have to face the fact that you will have to impose a very severe burden on the IDD users and in particular on the private sector, which I think in essence goes against the first and fourth paragraph in the motion by the Honourable Mover. Thank you, Mr Speaker.

HON MAJOR R. J. PELIZA:

Did the Honourable Member say that the sum required was £82,000, did he say that?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker what I was saying was that the deficit for 1982-83 in the Estimates, on page 109, shows that the revenue from local call metering in the Telephone Service Fund in the Estimates is £82,000 and that the October figure for revenue for local call metering is £12,000 so if we do a straight average and multiply by six it is £72,000 so we are £10,000 short and therefore we are not being conservative as was suggested.

HON MAJOR R. J. PELIZA:

I think I would like to start by commenting on what the Minister himself said when he said that the Government was taking a socialist line by adopting it this way. I wonder whether the socialists believe that this is the sort of line to take, I doubt it. I think the socialist line is to make no charges at all and pass the bill on to the taxpayers and therefore be more equitable that way. I doubt whether I think the Minister can say that that is a socialist approach to the problem. I don't think it is a socialist approach. I think that was a bit of trying to make a political point or playing to the gallery but hardly I think a sensible statement by a Minister who is responsible to a department which I think is playing an important part in the way of life of Gibraltar. I think that there has been lack of imagination in introducing

this change. I think we must all agree, and I doubt whether anybody here does not agree with this, that because in the past there has been no charges for telephone calls people have got into the habit of contacting friends for minor little things. The point of picking up the phone and making a call almost at any moment of the day that came to your mind was something which is very natural in the family all the time. The telephone was a friend in the home, a very good friend with ears and a mouth it was something that you could talk to any friend in Gibraltar at any time, without any form of restriction. But suddenly the whole thing has been transformed. Now instead of the telephone being a good friend it is someone who pinches money from your pocket and you have got to be careful and you have to tell all your family not to use the phone. That is the attitude in the home today whether we like it or not. And what about the poor old ladies and old men who find that this is the only way of keeping contact with the family on the other side of the street or the other end of Gibraltar or what have you. I know elderly persons who are connected with my family who used to spend hours every day on the phone. Now they are huddled up in one corner and they have no other contact in the world with their own friends any more. Where is the caring side of the Government? Haven't they given thought to that at all and they cannot say that they weren't warned because we told them time again that this was going to happen. And now what happens, you find that people are completely restricting their use of the telephone. That is a fact in any home and if not I suggest that the Government makes a survey, pass through a questionnaire and see what replies they are going to get. The answers will be exactly the same thing that we are saying here today. They have completely ignored the feelings of the people of Gibraltar, no caring at all for the disruption that they are going to cause to social contacts in this way, hardly the socialist line I must say. I don't think that a socialist Government would have thought of doing it that way. I know that we obviously have to square our books, no one is suggesting that we shouldn't square the books but there are ways of doing this without really interfering all that much with the way of life in Gibraltar and perhaps you do it over a period of time if it is necessary to do any metering. I don't know whether in the process of time it is going to be proved that it is necessary but what has happened is that the Government has taken no notice of feelings and have said it is a question of squaring the books above everything else and whatever happens it could not care less. I can see from the point of view of the Financial Secretary that that is his baby and that is what he wants to do. But this is a constant fight in any government, the Treasury are only interested in keeping the books straight, they are the book keepers, especially in our kind of government where the Financial Secretary doesn't form part of the political party at all and

therefore he essentially sees it from his own department point of view. And this is the way that quite rightly the Financial Secretary spoke today. But government is not just keeping the books balanced, of course not, if government was a question of keeping the books balanced then there would be no point in our being here, let the civil service get on with it and forget about the effect. That, obviously, is the big mistake, in my view, the big blunder the Government has made. The same thing is happening in Italy where for the first time they have introduced metering for telephone calls. And because they probably have the same character as we have they find the same problem, so what is the answer? The answer, I think, is that we should have done one thing. Instead of trying to make sure that we balance the books first, we should have first of all given a chance to people to carry on using the phone in the way they did and you would have found, in my view, that people would not have been so frightened of using it any more. Give them plenty of free units, plenty of them. In that way I think you first of all you accommodate the elderly people who would have been able to carry on using the phone. You would not have put the sort of brake that you have put on now and there are lots of people who would use the phone much more if you had not from the very start put a barrier to their using it and therefore, in my view, you would still be getting the same amount of revenue that you are getting today without in any way upsetting the way of life in Gibraltar. I do hope that after what the Government has heard here today, it will change their attitude, that they will see the social disruption that they are causing in Gibraltar and that they will increase the number of free calls by a significant amount. I hope the Chief Minister takes great note of what I have said because if he does it that way, I think it will again give a chance to lots of people in Gibraltar to carry on using the telephone as a friend as they have always used it in the past and at the same time I do not believe that he will be short of cash as time goes by. In fact, as I have said before, if they had given some more free units I have no doubt in my mind that the amount instead of being £12,000 would have been much more because lots of people would have used the phone much more than they have used it today and would not have put the very drastic restrictions that they have put on themselves particularly people with money. I have no doubt in my mind, and I stand to be corrected, but I think I can make a prediction that those £12,000 will start going up, not down. I am glad to see that the Financial Secretary agrees with me.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

If the Honourable Member will give way. I was nodding in the sense that I said, originally, that obviously it was too early and that I personally would not work on one month's figures but it could go up and it could go down. It is a matter of conjecture at this stage.

HON MAJOR R J PELIZA:

Well, my assessment, and I am sticking my neck out here, it will always go up. My judgement is that it will go up, because you just cannot do away with a habit, just like that. Whilst at the beginning like not smoking. I think people will go back to the phone and they will carry on using the phone more than before as they start forgetting what it is going to cost and more money will be coming in. Therefore, what I am trying to say is that the Government has put the cart before the horse, that is what they have done, they have put the cart before the horse and that they will, in my view, be able to increase the number of free units. What I am saying is that because that is the case, because I am sure it is going to be the case, and this is why I think the Government should take a calculated risk and give more free units and then of course, if in fact it so happens, because the Government can always put matters right, this is not a business which is going to go out of business. The Government can always get the money back if they want to. It is not like a private enterprise that once they put the capital if they lose it they go bankrupt. I think the Government can, if they want to, see the matter in a more humane manner, not completely ignoring the feelings of the people of Gibraltar, do it in a fair way, putting the onus on themselves and not really on the consumer and do it in a gentle manner. I have no doubt that the people would not have resented it so much and I have no doubt that this debate would not be taking place here today and therefore taking up the time of the Government which I think they need to do other things because there are plenty of things for the Government to do that they are not doing. Mr Speaker, therefore, I do support the motion, I think it is right that the motion should have been brought here. I hope that from this debate something will come out of it and restore to the people of Gibraltar the telephone communications which is so close to the normal way of life in Gibraltar.

HON M K FEATHERSTONE:

Mr Speaker, it seems that the Opposition like to work on double standards. When it suits them everything should be done in the UK style, the way the things are done in the UK are the best way going, the acme of perfection, but when it does not suit them then of course we must have our own special Gibraltar way of life and the telephone seems to be one of those things. Some of the points raised by the Honourable Mr Restano bear a little bit of investigation. The person who got a bill of £50. Well, that person if he got that bill entirely for local calls, must be spending at least 15% of his waking hours on the telephone. Surely, that is not the intention of telephones that you spend hours on the telephone, although the Honourable Mr Peliza seems to think that that is quite a reasonable thing because he says

elderly people used to do that sort of thing. Of course, you might have an emergency in which you wanted to get through to somebody and you could not get through to them because their line was always engaged, it was the boyfriend ringing the girlfriend and you could not get through to perhaps the father of the house for something important because the conversation was going backwards and forwards for half an hour or one hour non stop. Will it disrupt families? I do not think that it should. Perhaps what might be considered by some to be a little bit of an irksome duty, going to visit grandma or something could be overcome by a natural physical visit, to go and see the person rather than just fob them off with a telephone call. Now for the business sector, they are very hard done by. And yet the Honourable Mr Restano has not mentioned the point that IDD has helped the business element very considerably. Today you can make a phone call and get across what you want to somebody in, for example, the UK, in 30 to 40 seconds which will cost you less than 50p, whereas before we had IDD you had to pay for 3 minutes come what may, £1.50, or £1.70; so the business element is gaining money through the introduction of IDD and perhaps a little of the money they are gaining from their overseas calls can be offset against some of their local calls. Also if they rationalise their business when they have to make a call to make an order, they will order all the things they want rather than the old haphazard system in which they used to order 6 things and then half an hour later they would discover they had forgotten something and ring back, disorganise the receiver who was getting the order ready by having to put in extra bits in etc., so a little rationalisation will not hurt the business sector either. The whole system of cost, Sir, also devolves on what the Acting Financial Secretary said. Had we put all the extra costs of IDD into overseas calls, I am sure the Opposition would be standing up today and saying it is unfair that it costs £X to phone from Gibraltar to London when it only costs half that amount to phone from London to Gibraltar. So whichever way we did it we would have been wrong. The socialist system, well, I would think that the best system, and I think it is the system which the Government intends to work for, is that you should pay a nominal rental for having a telephone and in all equity you actually pay for what you use. You are the arbiter of how much you pay for your telephone bill every month, or quarter, as it comes in. If you want to use it a lot, then you should pay a lot. That is only fair in equity. If you do not want to use it a great deal, then you will only pay a little. This is the system that it should be, that is the system that I think Government will work for, a nominal charge for having your telephone connected and the rest is up to you.

HON CHIEF MINISTER:

Mr Speaker, I wanted to say something. First of all, I would like to commend and congratulate the Acting Financial Secretary for his maiden speech in his acting appointment. I think he very properly kept himself within the parameters of his appointment to the extent that it was so convincing that there was a chilled atmosphere for a while and nobody dared to get up because he had faced the reality of the situation in terms of the cost, until the Honourable and Gallant Major Peliza plucked up the courage to say that we should not listen to the Financial Secretaries, we should use our hearts and that all Financial Secretaries look at these things hardly. It is because he was looking at it realistically that it has such effect on Members opposite. And, of course, it is his duty to do so and it is our duty to consider, as he said. The social aspects of the matter are purely political for which we assume full responsibility but they must be guided by sound financial practice otherwise they are completely disorganised. I know that the Honourable Mr Restano has been feeling in anything where he takes up the cudgels he is constant to the extreme and naturally I did not expect anybody else to move this, I expected him to do that. I expected more of him. At the beginning I almost felt as if I was going to cry because of all the woes that were coming to the community by the way in which he presented his motion. Then he made an appeal to which I will respond in equal kind terms as he made his appeal. But I think my colleague Mr Featherstone has dealt with the main matter, the main problem here, and that is that like electricity, like any other charge, the bigger user should pay more and it should be much more equitable than pensioners and old people; for whom I have the greatest respect and regard, should pay for what they use and not for what they do not use. Therefore, we have to gear ourselves to a system whereby the subscription, certainly the domestic subscription, should be the very minimum that the system can have and the rest should go in calls which are required. In fact the Honourable Mr Haynes was kind enough to withdraw from the extreme statement to say that it had been an invasion of our culture, he watered that down a little. But has anybody thought of the benefits that this has brought? Has anybody thought of the peace that it has brought to many homes not to have a lot of boring calls being made to people, because it is all very well for somebody to be able to make a free call but is the other chap on the other side or the other lady prepared to receive it or put up with the nuisance of calling and calling and calling from a number of people who have nothing to do but that. I can certainly say that my house is much more peaceful now since the calls that are made are really worthwhile and not absolutely silly calls for anything, apart from the normal nuisances that one receives as a result of being in office.

HON MAJOR R J PELIZA:

Would he put it to the test and put it through a questionnaire to the people to see what they prefer?

HON CHIEF MINISTER:

We could put many things to the test. We are arguing the matter now and I am glad that my argument has evoked that reaction because it shows that there is something in it. I can assure Members that there are many people who do not want to receive the free calls but are bored by people who have nothing to do but use the telephone because it does not charge and that the peace has entered into many homes because only the real calls that are important are now made. That is one aspect of the matter where I think a great benefit has been achieved that you do not get interrupted at every moment because "Cloti, is your television going, or is it that mine is gone or is it Spanish television or GBC that is at fault?" You cannot do that anymore because you say "This is going to cost me 4 pence, why should I do that". It may well be to some extent, as the Honourable and Gallant Member said, it may be that after the first month or two people will start again but it will always be restrained because picking up the telephone once you have taken up your free calls means that you are paying 4 pence and you have to think twice before you can call Cloti or not, whether it is worthwhile calling her. So really, it is much more sensible the way it is being done now. What would have been the reaction of Honourable Members opposite if instead of having been £12,000 that had been collected from local calls it had been £20,000? They would have said "There you are, you are getting the money rolling in, you have provided for £80,000 and you are going to get £120,000". We would have under estimated completely the great urge that there are for silly calls. I think the projections are reasonably sound and I think that perhaps there may be a little increase when people think that, after all, it is not as bad and people realise that they have to take into account the overseas calls and so on. But if, in fact, the average, having regard to the figures given by the Honourable Dr Valarino, the average is £1.1 in a monthly bill, domestic rates are £20.70 a quarter so that if we could reduce that, I am not making any promises or anything, it is a matter of possible results of the final analysis after a few months. By £3 a quarter you are giving now what people are consuming back to them, and they will not be worse off. The old dears will not be worse off. They will be able, perhaps, more freely to use and perhaps make a saving in the end because some people do not have to make so many calls. A few people do make a lot of calls. The other aspect of the matter is, as I think was mentioned by one of the speakers from this side, that the peak hour where you make the important calls should be free, and it has also a bearing on the working of the exchange. The exchange has got a lot of statistics to

show the peak time, the element of wear and tear, and I think that what the Financial Secretary has said answers completely the idea that the matter should have been spread over generations. I make bold to say that 15 years is more than generous, that in these days of changing technology in 10 years we shall see a lot behind and we shall need, if we want to keep up with the times, to replace the equipment for much more modern and sophisticated ones that would be installed in the richer countries and that there will be a demand in this place for it to be installed. So that all in all I think we are taking a very right and proper line and I regret to say that much as I would be happy to give the Christmas present that has been requested of me, I would give many Christmas presents, but I would not like to give one that would burden people in the future and that they would curse me for it rather than thank me for it. There was one other point that was made and that is, on the one hand the Honourable Mr Haynes said that we want to brush out debate. I have never attempted to even introduce, which is something that applies in many other parliaments, time limits on question time, or time limits on debates, I have never tried to do that, I do not know why, I have been here only 32 years and I have never tried to curtail debate for this young man to come and tell us that we want to brush it off. I think we are giving this debate and every debate that has come to this House the time, the attention, the importance that it deserves because this is what we are here for and I do not resent the motions any more than I resent anything that happens in this House. This is what we are here for and this is what we were elected to do. But on the other hand, the lack of coordination in Members opposite, on the other hand comes the Honourable and Gallant Member saying: "Come on, agree with us and get on with something else. We are wasting your time here, you ought to be doing something better". Now which is it, what Mr Haynes says in one moment or what Major Peliza comes from England to tell us. Which of the two is it? Really, in the final analysis, as has been said, this is really playing at politics like the motion of censure on the electricity which misfired completely. It is playing at politics, it is trying to curry favour with a few for the sake of doing something in what I have already called the frustration of being in opposition.

HON P J ISOLA:

It was a serious debate until the last two or three sentences of the Honourable and Learned Chief Minister on the question of politics. This is not playing politics, this motion. We have opposed local metering of calls ever since it was announced some years ago, or a year ago. I have heard with great interest what the Acting Financial and Development Secretary had to say and I certainly congratulate him in the manner in which he has put forward the facts and stayed away from fiction. But, Mr Speaker, what the Financial and Development Secretary omitted to say is that if this Government had acted with energy and with foresight not in 1982, but

in 1975 or 1976, when the idea of IDD was first mooted and asked for, we would not have a charge of 11m because it is exactly the same as the power station, and I will not go into it. The cost which it has to pay is now far greater than if we had an efficient Government, had dealt with the matter efficiently, got on with it and we had IDD at an earlier date. And then he tells us about the rapid progress in the technology in the Telephone Department and therefore we cannot agree, he says, to a longer repayment plan. But I think that is something he need not worry himself about because I know technology advances rapidly but it is not one of the hallmarks of the Government that he serves. Although technology will advance we will not necessarily get the new equipment until the Government is pressed to supply it. So, therefore, it is likely to be with us, the present equipment, I would imagine, rather longer than he himself suspects. Mr Speaker let me just say one thing. Looking at the Telephone Service Fund, I notice that Personal Emoluments, for example, go up by £42,000, from 1982 to 1983, in Page 109, and that the Trunk Call Service Charges go up by £54,000 odd, one can balance the other. I also notice, though, in the Personal Emoluments Vote, for example, that there are 9 Trunk Call Operators and that the Temporary Assistant Trunk Call Operators for 1982 to 1983, was in fact increased from 8 to 9. Obviously, with the introduction of IDD, the need for Trunk Call Operators has probably diminished, but I think Government were quite right to say, "No, let us see how it goes". So they increased the number of Trunk Call Operators required from 8 to 9 even though the projection, even conservative projection, must have shown that the need for them would obviously diminish during the year in question but the Government took the prudent, cautious, conservative view of actually estimating for more Trunk Calls Operators when in fact the need for them were obviously going to be reduced with the introduction of IDD and we do not quarrel with it. What we do say is, why could they not have adopted the same waiting policy on local metering? Why could they not have said: "Well, let us see if IDD produces this extra revenue in extra trunk calls and then let us review the situation at the end of the financial year. Why push it on to people? Because whatever the Honourable and Learned the Chief Minister may have to say, it is a fact that elderly people who live alone are frightened by the charges that they may have to pay. The elderly lady the Honourable Minister has met and who has been surprised to find or who didn't have to pay anything extra, it is a question of paying extra they are already paying extra, those ladies were and are very conscious because they are afraid of getting a bill for telephone charges which they may not be able to meet when they get the bill at the end of the quarter, so they are being very careful. It is not that the allowance is generous, it is that they are constrained by the fact they have to pay and those elderly people who live alone rely on their telephone not just for gossip but to find out

how the rest of the world is living, how their grand children, etc., are getting on. It is not a question of Cloti and Toti, it is a question of a genuine desire to find out how her grand children or her children, or her daughters or so forth, are doing. Those people are being affected, it is no use the Government saying they are not, they are cost conscious. I can tell the Minister that one elderly lady in particular was horrified because she had spent 54p during the month of October because she was counting her calls so that she would not have to pay anything extra. It was reported to us by her family, by her son, not Hassan, by her son. This is a fact and we all know it and I am sure the Government equally with us would like to do something about it if this is a genuine problem. We believe it is a genuine problem, that is why we are asking for it. The point made by the Acting Financial and Development Secretary about the IDD calls that if the Government was to do away with local calls it would have to double IDD charges. Well, I do not believe that is in fact correct.

HON CHIEF MINISTER:

If the Honourable Member will give way. What he meant was our part of the international charges, that was our share of it, not the international part of the share, but our share.

HON P J ISOLA:

I say that because I think the International Dialling is going to be used increasingly more and more and it is being used increasingly more and more. It is very convenient, Mr Speaker, for business people and even private people who have got children or students in England to just pick up the phone and dial than have to have the old system of dialling 00 and if you were lucky you got an answer in 5 minutes or 10 because of whatever the reasons were, and then you had to wait a long time before your call, you had to get in the queue and all that. Now when people find that they can just pick up the phone and dial the increase is going to be enormous and I believe that is being underestimated, possibly not in the first year of operation but certainly for the second year. And I don't agree with what the Honourable Mr Featherstone said about ringing up England on a business call and talking for 40 seconds, I don't know what sort of business he is thinking of but my experience is that you have to speak for anything a lot more than 40 seconds. The question of International Direct Dialling I think the Government, after all it was still subsidising, it was still carrying a deficit of £120,000 into next year, I think that the Government could have said, "Let us wait, let us see what the trunk call service produces, let us see the number of operators that we now need after the end of a year and then let us see if we can make economies and not

necessarily just pass on charges to the public. Let us become more efficient and see whether we can become more efficient at the end of the year. Let us not just get a book, open it, and say, "This is the expenditure, this is the income and that's it". This is what has been done and that is why we object. The question of the average bill the Minister talked about of £1.07p. I have heard this before, Mr Speaker, when electricity charges go up, it only means in the average household so much. Water goes up, it only means so much in the average household but I can never find an average household, Mr Speaker, because you speak to anybody and they all seem to be paying more. There must be about 1,000 people in Gibraltar who spend nothing on anything and they help the Financial and Development Secretary enormously when making his estimates about the average household. I am convinced it must be that. I used to remember, Mr Speaker, a very wealthy man who did exactly that, he never used electricity, never used anything, he died a very rich man and charity got the lot. This must be it, Mr Speaker, as I said, I have met a great number of people who have had their telephone bills and have complained about the amount, so this average business just doesn't wash with us. The question of the way of life in Gibraltar I think is a point that has to be taken into account seriously. It is the way of life in Gibraltar for people to pick up the phone and ring up their relatives or their friends and if we can afford it why shouldn't it be like that, this is what we say, why shouldn't it be like that? Already the Government is retreating actually from the position because we have already been told: "We shall see whether we can give more free calls. We shall see what we can reduce the quarterly charge. We shall see as we go along". Well, why put it on? First of all why not see what happens with IDD and then make your decision, why put people through all this hassle. The question of the business side, I would like to say something on that because the extra imposition, Mr Speaker, let us not forget, is not just the extra imposition of businesses paying more. We must not forget the extra charges which the Government itself is going to pay for local metering. Last year I think in the estimates we were told it was £100,000, roughly, the amount the telephone service had cost the Government in all the various departments. What is it going to be this year Mr Speaker? We shall know at budget time. We are told rules have been made about people not using the phone in the civil service and the various Government departments and the Government is spending a lot of money in installing coin boxes so that people use them and so forth but forgetting all that, what is going to be the cost at the end of the year and that is going to fall on the private sector by way of ordinary taxation expenditure. I agree with my Honourable and Learned Friend Mr Haynes that at the moment I think he was talking of suddenly the private sector surging forward with the opening

of the frontier and I hate to have to have to disappoint him on this, I don't think the private sector is going to surge forward with the way the frontier is going to open. If it opens fully it is another matter but at the moment if the frontier opens in the way that it appears it is going to be opened there is going to be more burden still placed on the private sector and therefore is it right to experiment at this time. Mr Speaker I think that arguments, very strong arguments have been put not just today but in the past, why we should not have local metering. The phone used locally is a way of life, it is a great protection for elderly people, it is a way of keeping families together, everything is to be said, I think, for free local calls and very little to be said, I think, for charging people for using the local calls in the circumstances of Gibraltar. Government has made its decision, it has charged, we are putting this motion down because we think and the public must know how we think that there should not be a charge for local calls and we put the motion, for example, of censure on the Government on the question of the Electricity Undertaking because we thought the public must know, how we felt on the disastrous way in which that situation had been managed and apparently continues to be managed and this is the place for us to bring these measures. We are not playing politics. Every time the Government does something it is in the public interest and everybody thinks it is fine and wonderful and then all their various organs, if that is the right word, then say what a wonderful thing it is, it is all repeated on and on and in the end people believe it. This is the trouble. But, Mr Speaker, arguments have been put forward why the Government should reverse its decision which are perfectly valid and have great weight and I think the Government should reconsider their position now and agree to the motion.

MR SPEAKER:

If there are no other contributors I will call on Mr Restano to reply to the motion.

HON G T RESTANO:

Mr Speaker, I am going to go through some of the points that have been raised by Members opposite. The Minister, the Honourable Dr Valarino, spoke about the deficit there had been over the last two years but he also said, I remember, some years back, how proud he was of running a department which was virtually paying for itself. It means that he has allowed over the last two years for a pretty hefty deficit to occur and I think that perhaps that is one of the reasons why the Government has seen it fit to impose these local charges. Instead of going for the efficiency of his department he has merely thought: "Ah, well, why

should we worry, here is a golden opportunity of charging the people to overcome those deficits". He said that he didn't think that people were very much against, that some elderly people had not used all their free units, of course not, and as I think the Honourable Member here has said because they aren't go near the telephone in case they have to pay much more than what they had to pay before. And then he gave the impression that people weren't against this and he said: "After all, there have been no letters in the press. I wonder whether he takes that as a criterion of public opinion and I could say to him that if that is what he requires to take the calls off, let people write, if that is what he is saying, and I am sure people will write in the same way the Chief Minister who said that people didn't like receiving telephone calls but when my Honourable and Gallant Friend here challenged him and said put it to the test, he recoiled pretty quickly. I think that to a certain extent perhaps Members on the other side do believe that because Mr Featherstone also said that people were talking non-stop and they were always engaged and you could not get hold of the head of the household to talk about something important so, presumably, I must take it that those local charges in part must have been imposed as a deterrent to people to use the telephone. That is the real reason, that and the fact that perhaps the department is not working as efficiently as it might be. I, too, would like to congratulate the Acting Financial and Development Secretary on his maiden speech, I think he obviously studied his subject very well before coming to the House and I think he gave a very creditable performance. There is no doubt, Mr Speaker, that the imposition of these charges have hurt people, have hurt them pretty badly and it will continue to hurt them whilst the Government continues in its intransigent position of not agreeing to reverse the telephone calls. It is a bit of a cynical attitude and the Chief Minister seems to take it very lightly, he doesn't seem to give the matter enough importance but, anyway, there we are, I think he is there for the next 18 months and Mr Speaker, I think all the arguments have been put and I think that is all I will say.

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

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

The following Honourable Members voted against:-

The Hon I Abecasis
The Hon 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 E G Montado

The following Honourable Member was absent from the Chamber:-

The Hon A J Canepa

The motion was accordingly defeated.

The House recessed at 7.55 p.m.

FRIDAY THE 10TH DECEMBER, 1982

The House resumed at 10.45 a.m.

HON P J ISOLA:

Mr Chairman, I beg to move the suspension of Standing Order No.19 to enable the motion that I gave notice of on the 8th of December to be moved notwithstanding the five days notice has not been given as required by the rules.

HON CHIEF MINISTER:

Mr Speaker, because of the importance of the matter, I am quite happy to advise my colleagues to give way to deal with this matter but I would like to say that it should not be the practice. Because we are not going to meet for a long time and this is perhaps the best time to do that and I certainly welcome a discussion on this matter, but I would not like this to be a precedent for normal business of the House.

MR SPEAKER:

Standing Orders can of course be suspended with the consent of the Speaker. I use my discretion liberally, taking into account the consensus of the House and consent is most certainly granted in the circumstances and I will then put the question that Standing Order No.19 be suspended to enable the Honourable and Learned Leader of the Opposition to move the motion of which he gave notice on the 8th December 1982.

The question was resolved in the affirmative and Standing Order No.19 was accordingly suspended.

HON P J ISOLA:

Sir, I move the following motion standing in my name: "This House considers that so long as there is only a partial opening of the frontier, the Gibraltar side of the frontier should continue to open and close as at present and further that urgent consideration should be given to the possible damaging effects on the Gibraltar economy of the proposed manner of opening and steps taken to protect Gibraltar interests following from the absence of Spanish customs facilities". Sir, let me say straight away that we do not intend to make it a practice on this side of the House to move motions that require the suspension of Standing Orders. I think this is the first one that we have in fact moved but as has been stated by the Honourable and Learned Chief Minister and by you, Mr Speaker, this is a matter of some considerable importance and because of the fact that we will not be meeting again until well after the proposed opening, we do think that this is the appropriate kind of situation where the suspension of Standing Orders is not only legitimate but desirable. Mr Speaker, the Spanish Government announced on Tuesday night that it intended to open the frontier for pedestrians unilaterally. There was no previous consultation, as I understand the situation, with the British Government on the matter, it was just a unilateral act on the part of the Spanish Government and expressed to be on humanitarian grounds. I think one has to go back as far as this particular announcement is concerned, one has really got to go back to the programme "Man Alive" in July when the present Spanish Foreign Minister stated in the course of that programme that the Socialists did not agree with the restrictions and if the Spanish Socialist Party got into power, as they fully expected to do at their next general election, they would remove the restrictions. What happened on Tuesday evening, the decision taken by the Spanish Government on Tuesday was, perhaps one could say, a step in the right direction but it was very far removed from what had been stated by Señor Morán during that programme. He said that the restrictions were a mistake, he said that a Socialist Government would take them away and so forth. But what has happened has been something rather different, what has happened has been an announcement very carefully phrased, very carefully phrased, aimed at, I suppose, pacifying the different elements in Spain but as far as Gibraltar is concerned, aimed at purely and simply allowing people to cross through the frontier on a pedestrian basis but at the same time protecting all the various Spanish interests that could be affected in the opening of the frontier. It has not been a generous gesture, it has been

a calculated gesture and I think the response must be carefully measured to the gesture itself. The announcement was referred to in The Times of Wednesday and it is interesting to see how that newspaper picked up the announcement. They quoted Señor Gonzalez as saying that when the frontier gates opened permanently Spain would be watching to avoid what he called negative economic repercussions for the country's economy - Ceuta and Melilla. Only one passage per day would be allowed to prevent undesirable economic activities, camouflaged as visiting. There are to be no customs posts only police control. And he said that to protect national interests special attention would be given to maintaining traffic at Malaga Airport which would now be challenged by Gibraltar Airport which received subsidies from Britain. So that the Spanish national interest was being very carefully looked after and in addition, of course, he said in the press conference that they would protect the interests of Ceuta and Melilla. In other words, it would seem that that statement and one can only take what he said, one cannot start making judgements and predilections, well, one can but one is likely to be proved wrong if one starts speculating but looking at the statement as it was made, the statement was directed at people but not at economies, in other words, it was directed at allowing people from Gibraltar to visit Spain and presumably vice versa without any particular conditions except that they could only go through once a day but the economic policy, if I may call it that, of strangulation of the economy which is what the present restrictions are, was to continue in full force and in order to protect the Spanish economy people are only going to be allowed to cross once a day so that they could not, I presume, come in more than once a day and start buying any allowances they are allowed or whatever, I do not know what it was, but the net result was, as I see it, a very clever move on the part of the Spanish Government that undermined, let me put it this way, undermined the British argument internationally that the question of Gibraltar and Spain was a question of people and the rights of people, and that it was terrible that people should be prevented from crossing what had in effect become a Berlin Wall, it undermined that argument because the Spanish Government came forward and said "We are now allowing people to go across", and this is what matters in foreign capitals; "Now they have opened the frontier, people can go through", "Spain to open the Gibraltar gates next week", that was the headline. But, of course, only the people on the spot realise the problems involved in this manner of opening, we do not know yet exactly how it is going to open but from what has been said and that is all we can go on, one is worried that the economic siege continues and it is not difficult to explain that the manner of opening could have dire consequences for the Gibraltar economy. And in the same way as the Spanish Leader referred to protecting Malaga Airport, protecting

Ceuta, protecting Melilla, one would have thought listening to him that if you allowed free movement of goods and people across that frontier the Spanish economy itself was put at risk, which to me is quite absurd, but all these various Spanish interests were fully protected and of course the manner of opening as has been put forward can be extremely beneficial to the town immediately across the border because the manner of opening, pedestrians only and you can't do any business etc or whatever, must inevitably help that economy, the economy of La Linea specifically, and we are not against that, I don't think that we are, but that is what is going to happen, but what we have to be sure and guard against that it is not helped to the economic detriment of Gibraltar. So that, Mr Speaker, the proposed opening of the frontier by the Spanish Government on Wednesday is not what was envisaged, of course, at Lisbon. What was envisaged at Lisbon was the removal of all restrictions in order to bring about a climate of friendship between Gibraltar and its neighbours in Spain, it is a very different matter. On the other hand one must not underestimate the act that is being done either, that the Spanish Government is literally opening the frontier for pedestrians which it has kept firmly closed for 13 years. That is a step forward, there is no question about it. But, unfortunately, it is not the sort of step that can be fully welcomed because in the same breath, virtually, the siege continues and that cannot turn us into euphoric joy, this is just not the case. Having said that, why do I propose that so long as there is only a partial opening of the frontier the Gibraltar side of the frontier should continue to open and close as at present? Mr Speaker, the keeping of the border open 24 hours a day is not something that is popular, it is not something that I certainly have ever regarded with jubilation or without any reservation whatever, I do not think anybody has, but the removal of all restrictions and the placing of the Gibraltar frontier with Spain on a normal frontier basis required or maybe it is desirable that if it was going to be a normal frontier, it should be a normal frontier for all purposes and normal frontiers tend to stay open right through the day and night. On that basis I think that sort of opening has to be accepted because if all restrictions were to be removed there was no reason really why the frontier should not stay open 24 hours a day but we were not happy about it, this is the point. I do not think people in Gibraltar are happy about it. I do not think fathers of children are happy about it. I think people who have lived in Gibraltar with that frontier closed have felt a certain sense of security that they might feel is put at risk by the frontier staying open 24 hours a day. And what I say is and what I believe is, that our agreement to a 24 hour opening of the frontier would link really with the Lisbon ideals, if one may call

it that, or the Lisbon principle of removal of all restrictions and the normalisation of the frontier as a frontier. But that is not what is going to happen, what is happening is that the Spanish Government, by unilateral decision, had decided on humanitarian grounds to open the frontier for pedestrians and they have said they will do it 24 hours a day. But in that sort of partial opening of the frontier it is my view that it is wrong for us, if it is within our hands, because the times the frontier opens and closes, of course, is a matter entirely for the British Government, but I would hope that they would take notice of how this House feels on the matter but the question of us coming back with that in my view, and I hope the House will agree, is not justified. Why should the Gibraltar side of the frontier not continue to close and open as it has done since 1969? It has been closing and opening throughout these last 13 years at midnight, or whatever the time was, and 1 o'clock in the morning on a Saturday, this has been going on, and I ask what benefit is there to Gibraltar in changing those times? None at all. On the contrary, it worries people, it brings about a sense of insecurity and not altogether unjustified, Mr Speaker. It makes people uneasy, it sounds or smacks, possibly, of a concession which was really envisaged against a normalisation, against a new spirit, against a new era and all that, and really, at this point of time, there is no need for that, Mr Speaker, and I think that this has been a unilateral act on the part of the Spanish Government and as far as the Gibraltar side of the frontier is concerned, the total opening of the frontier 24 hours a day should be reserved for the day when all restrictions are removed and we have a normal frontier in Gibraltar. That is the time to do it because if we do not do it at that time, Mr Speaker, the terrible problem that we in Gibraltar have at the moment is that as far as a lot of people in Europe are concerned, as far as a lot of countries are concerned, they say: "Spain has done a very good job now, they have opened the frontier on humanitarian grounds, people can get over and see their families, what are all these people now worrying about and complaining about?" And the fact that we correspond and open the frontier for 24 hours will help that sort of argument, will help that sort of theory being propounded all over the world. It is very fortunate of course that the British Government, whilst welcoming this as a step in the right direction, have stated that of course what they are looking for and must look for is the removal of all the restrictions. That is important, not just from the point of view of Gibraltar for Gibraltar local consumption, it is important in all the different capitals that Spanish propaganda, if I may call it that, or Spanish statements on their position, can be replied to in all these different forums by British Government representatives that what is happening is not the removal of the

restrictions but a humanitarian act for which if any economy is going to pay, it is going to be the Gibraltar economy. We are going to pay ourselves for this humanitarian act. The Spanish Government is not going to pay. They are doing it in a way that protects Ceuta, Melilla, Malaga Airport and everything to do with the Spanish economy, so any loss is going to be borne by the Gibraltar economy, and therefore, I think that our response should be a measured response, it should be: "Well, thank you very much, you are going to open the frontier on humanitarian grounds, for this we are grateful, but I think we ought to tell you that the way you are going to open it is not in fact going to engender a very friendly spirit, or might not engender a very friendly spirit, might not create friendly relations, we will discover that the way you are opening is in fact damaging our economic interests and damaging the economy of Gibraltar and that cannot be regarded as a friendly act". So, Mr Speaker, it is in my view an important matter of principle that our response is measured to what is being done and that the complete normalisation of the Gibraltar frontier with regard to times of opening and closing should be kept back until there is normalisation at that frontier. You see, Mr Speaker, you have got a very pretty customs set-up put up by the Spaniards prior to the implementation of the Lisbon Agreement, full facilities there for customs which are deliberately not going to be used. Let us suppose that this had been done in 1980, the Government could have had the excuse: "Well, we have not got the customs facilities, we went and knocked down the old Aduana, we knocked it down, it is no longer there, so we just have not got them". But today they have got them, they are there for everyone to see. Extensive customs facilities. Why are they going to deny the use of those customs facilities, the Aduana, why? Because of the pressure of Ceuta and Melilla? Because of Malaga Airport? And if that is the case, Mr Speaker, how can we respond happily to that. Surely it means "I am sorry, boys, I have let you come into La Linea and spend your money but we are determined that Ceuta and Melilla shall not be a penny worse off, that Malaga Airport continues to have 40 or 50 or 60 odd flights a day as they have in the summer I believe, and that everything stays fine in Spain, the you guys stay under the economic screw". And it is because of that, Mr Speaker, that our response must be measured because at the end of the day what is going to be the use of people going to see their families in Spain if they have got no money to spend there, so I would hope the House would support that. The other side of the motion is a trickier one, in other words, that of taking steps to avert the possible damaging effects on our economy the way the frontier is opening. We cannot be indifferent to that, Mr Speaker, we cannot be indifferent to what is going to happen in the manner that it is being opened. I believe, personally, that if the Lisbon implementation had taken place of a

complete normalisation at the frontier, I believe that Gibraltar would have benefitted economically. I do not share the view of people, I may be wrong, that the results would be bad for the economy of Gibraltar. I just do not believe it and I don't think it is so. But this sort of opening of the frontier I have no doubt is damaging to the economy of Gibraltar. There is no question about it, La Linea is being made happy at our expense, Ceuta and Melilla have been kept happy at our expense, Malaga Airport is going to be kept happy at our expense. Not at the expense of the Spanish Exchequer, not at the expense of the British Government but at the expense of our own economy. So we cannot be indifferent to that. I cannot just say: "Well, fine, they are doing that and let us see what happens". No, I cannot be indifferent, we have to react but it is very difficult, Mr Speaker, the task of the Government is very difficult in this situation. It is a very difficult task and I concede that because I think that the reaction really will have to come from the people of Gibraltar themselves. They will have to have understanding of the damaging effects on the economy on what is going to happen and the Government in any measures it takes will have to carry the support and understanding of the people of Gibraltar. If, Mr Speaker, the Spanish Government are to have no customs facilities, nothing is to pass through that frontier one way, my immediate reaction and I would hope the immediate reaction of Gibraltar should be that nothing passes the other way either. That is the sort of decision that has to be made by the people of Gibraltar in defence of the economy because eventually if the jobs and the businesses are kept going by the economy and in the same way as all of us are concerned by the dockyard closing because of its effects or possible effects on the economy, we must show equal concern at another situation which challenges the very basis of that economy as well, not as strongly possibly but which challenges it. I think, Mr Speaker, when I say in my motion that I press that urgent consideration should be given to the possible damaging effects to the economy, the Government I agree has to watch what is the manner of opening but if the manner of opening develops a certain pattern there must be response from Gibraltar in the interests of the Gibraltar economy and it must be done in a way that people can understand and appreciate. We on this side of the House will certainly support measures to protect Gibraltar interests following what is a partial opening of the frontier. If the Spaniards have no customs facilities is there any reason why we should have customs facilities? If nothing is to pass one way, why should anything pass the other way? It is a difficult one but an important point of principle as far as Gibraltar is concerned. There may be a need to take other steps and perhaps by taking these steps perhaps pressure builds up inside Spain to indicate to the Spanish Government that a

measure that they have projected as a friendly act is implemented the way it has been announced it is going to be implemented, could well be regarded as a distinctly unfriendly act. We are saying this is not in a manner of antipathy, not in a manner of trying to create illfeeling or anything else, but if we are to understand each other then we have to speak clearly. The Spanish Government has spoken clearly, I think we ought to speak equally clearly and that is why, Mr Speaker, because of the dangers that one sees ahead or developing in this sort of situation that I think it is necessary for this House to try and formulate a Gibraltar view on the matter and to be, if possible, united in its view because I think it is very important and very much a matter of important principle. The dangers of this partial opening could only be seen too clearly in the television discussion that one saw last night on television which was a discussion on the partial opening of the frontier. It moved completely away from that to negotiations, to Lisbon and everything else. It was regarded as - well here it is, now we negotiate. Everybody got involved on the issues of negotiations when this partial opening, in fact is not the prelude, certainly as I understand the position, to any negotiations at all. But already people are thinking that there has to be a quid pro quo for this. There has to be no quid pro quo for this, Mr Speaker, this has been a unilateral act without prior consultation on the part of the Spanish Government and I am afraid that a partial opening of the frontier would be regarded as a quid pro quo and I personally am against that because I believe that although normalisation at the frontier is desirable both in the interests of Gibraltar and the interests of Britain and probably in the interest of Spain, it has to be normalisation and we have never agreed that a slight easing of the restrictions means that because you cannot be normal, I can't, I don't know about other people, you cannot go to Spain and have a drink, for example, not that we will be doing that, Mr Speaker, but you can't go to Spain and have a drink in La Linea and feel normal when you know perfectly well that the measures that have been taken continue to aim at strangulating the economy of Gibraltar. Whether it is intentional or not it is neither here nor there, one can only go by what is being done and what are the effects on Gibraltar and therefore, Mr Speaker, I urge the House to take a view on the matter and to agree to what is in effect a limited motion, a motion which is intended to be a response to a particular situation. I am not talking here of Lisbon, I am not talking of NATO or EEC or anything else, I am talking of a situation that is arising and what should be the response to that situation. Everybody has spoken up about their interests, Ceuta, Melilla, Malaga, the Opposition Parties in Spain, even the person who negotiated the Lisbon Agreement has also spoken up about it.

I think there is a need for us to state clearly what our position is, how we feel this affecting us and how our response must be both cautious and measured. Mr Speaker, I commend the motion to the House.

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

HON J BOSSANO:

Let me say that I find that the Honourable and Learned Leader of the Opposition seems to be so intent on this cautiousness as the dominant element in his approach, that I think he has been bending over backwards in expressing the reaction to the pedestrian opening and that in doing so I do not think he is doing what he wants us to do which is to speak plainly as the Spanish Government is speaking plainly. Mr Speaker, I will be voting for the motion and I will explain why I am voting for the motion and I will explain what my analysis of the situation is which, in fact, I will say that by contrast to the hesitancy of the Honourable and Learned Member is perfectly clear-cut. I have no doubt at all in my mind that we have to give no quid pro quo for a partial opening or for any other kind of opening or for the implementation of the Lisbon Agreement or for the full removal of the restrictions. This is the sort of plain speaking that I will say to the Spanish Government. They are perfectly entitled to behave as they wish and we are perfectly entitled to behave as we wish in our own country, which is what Gibraltar is. Therefore one should not be surprised that the Spanish Government has said that they will protect their national interests, what else would we expect them to say, that they harm their national interest? And we should not be surprised that what they have done is a very clever thing. They have taken the move which removes the one argument that the British Government had in attacking the policy of previous Governments in Spain. The one argument was that Spain was acting in a manner which was not only harmful to the interests of the Gibraltarians, which to some extent they are perfectly entitled to be because we do not want to be with them, were even harmful to their own citizens and there is no doubt about it that the people who were harmed by the closure of the frontier were the Spaniards and there can be no doubt that the standard of living of the Gibraltarian and the sense of identity of the Gibraltarian has been enhanced and improved by being cut off from Spain and therefore the tendency and the trend that we have seen developing with the closed frontier will be reversed by an open frontier, inevitably it will be reversed, and we shall have to work very hard to prevent that reversal and we should be conscious all the time that we are asking for all the lifting of the restrictions that the lifting of the restrictions will bring.

us a lot of problems. I have no doubt, Mr Speaker, that the choice is ours when we open our frontier and the choice is theirs when they open theirs, and if they are entitled, which they are, to open theirs for pedestrians only or to open theirs for a few hours only, we are entitled to do the same with ours so there are two ways of doing it either they open it at one time and we open it at another and we could even chose to open it when they close it and close it when they open it, that should keep it permanently closed, or, alternately, the Spanish Government can try and co-ordinate their times of opening with what we are doing on our side. I support entirely that the decision should be ours. I think the Honourable and Learned Leader of the Opposition suggested it might not be within our hands, in fact, to take that decision and that all that we could hope was for the British Government to take notice and it is entirely up to them. Well, I do not think it is entirely up to them, quite frankly. It is up to us the people who live here. It is all very well for London to make a decision but they are not going to be affected by it and in fact, I don't think it can be left as loosely as that, I think if we tender advice on what needs to be done and our advice is ignored, then there should be a follow-up to that. If there is a cost involved in ignoring that advice then that cost should be met by those who ignore the advice and not by those who give it. But I don't think that as a reaction to the pedestrian opening the fact that we keep our frontier closed in the evenings is going to make any difference to the economic impact. It may make some people feel more secure because I think the problem of security is only going to be marginally affected myself, I think the problem of security will arise from fairly uncontrolled movements across the frontier and that in fact in terms of security a pedestrian opening is more secure than the total removal of restrictions. In terms of priorities if we want everything taken off then we should be even more worried about security. I think it has an important symbolic value and I think it is about time that we did not seem in Gibraltar to be totally conditioned by whatever Spain decides to do and we respond to it. I think it is time that we should be seen to be taking, even if it is only a what I would consider to be a minute gesture on our part. Of course, this will cause a certain amount of discomfort, presumably, to some people, that is to the people who would want to go across in either direction and go back very late, well, then they will have to make up their minds either to go early or to stay overnight. At least the Spanish Government could not accuse us in those circumstances of not permitting Spaniards to stay overnight because in fact we would be forcing them to stay overnight by not letting them go back before the evening. Yes, if they miss the frontier they would have to stay overnight and go back the next morning, so that they can't complain that they are not

allowed to stay overnight. They can only complain if we actually parade them down to the frontier and push them out before we close but if we let them stay they are being allowed to stay overnight. It might fill up all the hotels, yes, that would be a beneficial side effect. I think that in terms of whether the opening is being aimed at harming our economy and I think the Honourable Member first said it was aimed and then said even if it was not intended to be aimed at that, well, I do not see how you can aim without intending to aim. I don't think it is a question that they are intending to harm the economy, I think it is that they are not intending to help the economy and that we have to understand is consistent with their declared policy. What the Spanish Government has said is: "Alright, we accept that by keeping that land frontier closed and by keeping families separated what we are doing, effectively, is negating our policy, making our policy more difficult because, in fact, we are getting the Gibraltarians' back up, we are getting them against us by keeping them out of Spain and not only are we getting them against us, in fact, we are making it more difficult for them to absorb our culture so we ought to move in the opposite direction, we ought to let them come into Spain, and mix with us, and that at least removes a bone of contention. But, of course, we still want to take them over, that does not change". So the next thing is, clearly, we have got a serious economic problem in the surrounding area, well, it makes eminent sense from that point of view to have a pedestrian crossing because if you look at the logic of the situation and if you are after several million pounds of purchasing power from, by Spanish standards, very wealthy consumers in Gibraltar, then if you have a pedestrian opening there is more of a likelihood that a bigger proportion of that money will be spent in the immediately surrounding area whereas if people go with flashy new cars they are more likely to speed through La Linea and spend their money somewhere else so a more effective move to help in particular the economy of the Campo Area is to do precisely what they are doing. And one has to understand the logic behind it. If we can then say: "Ah, well, yes, but that is a unfriendly gesture". It depends on where you are. If you are in La Linea it is a very friendly gesture, and I do not think that it is strictly accurate to say that a pedestrian opening protects the La Linea economy at the expense of the Gibraltar economy, I think it protects the La Linea economy at the expense of parts of Spain further afield but I think that if there was a totally open frontier the loss to the Gibraltar economy in terms of purchasing power would probably be greater. I think there would be people who would not go to Spain until everything has been absolutely and completely removed as a matter of principle, and quite a lot of them, because in fact if we were to see 300 or 400 people crossing the frontier one would get the impression that that is $\frac{1}{2}$ of

the population and one has always been pressing before, when the restrictions were initially introduced in stages, that there were thousands of people going. That was probably true, there were probably a couple of thousand going and 25,000 not going. I think one has to understand that if the situation had been a complete lifting, the impact on the economy, in my judgement, would still have been adverse and I think that the people who have been looking at the situation, and admittedly even the most expert economist in a situation like this can only make a guesstimate because we are talking about hypothetical behaviour, we are talking what people will do with their money if they are free to choose in a way they are not free to choose today, whether they spend it here, they can choose to spend it over there and vice versa. If we look at it purely from an arithmetical structural model of the economic interrelations lines, one thing that would clearly be predictable in the absence of anything else and forgetting for the moment that human beings do not in fact function as if they were economic robots, then the theoretical consequences would be that the trade flows between Gibraltar and Spain would bring about an automatic re-orientation of Gibraltar's economy where some areas of Gibraltar would be uncompetitive faced with new competition and would decline and disappear and other areas would find that they are very competitive and that they were gaining new markets and they would expand and in an ideal model that process would be one of internal judgements so that at the end of the day there was, if you like, specialisation in our economy supply in certain things and importing other things and one thing balancing the other. But we know that no national economy has ever achieved that. Every economy has got essentially that problem and in practice it does not happen like that. The fundamental difference in our case is of course that if those trade flows are anything other than balanced, the imbalances could be huge because in fact we have nowhere else to turn to, that is, the person engaged in a particular economic activity in Gibraltar is in a position where if he loses his present custom almost by definition he will not be replaced by anybody else because the people who are already the customer of the outlet that takes his customer away will obviously retain what they had and keep what they have got and therefore it is not the question that people are going to suddenly start buying their fridges in La Linea if they are Gibraltarians and the La Linea people are going to come here and buy their fridges in Gibraltar. If there is a competitive disadvantage in a particular line that will mean the end of that line and there is not any other logical prediction that can be made. What is in doubt and where the degree of optimism or pessimism revolves around is what is going to substitute that line and are there enough goods in sufficient quantities and leaving a sufficient income? And

of course when we are talking about that, again, one has to think at different levels. You can substitute one particular commodity for another and that might mean that the volume of what is now being sold with a different set of customers is sufficient to keep the particular business going and perhaps to keep the particular employees going but it might not be sufficient to offset the loss of revenue to the Government because what is lost may be paying one rate of taxation and what is gained may be paying a different rate of taxation. When we are looking at the consequences, what can be predicted for the consequences to one particular sector, one level of the economy, is not necessarily what is the consequence for the other one, so you might get something that is bad for Government finances but good for the particular business and indifferent for the economy as a whole. One that might be good for employment and bad for profit and something else that is good for profit and bad for employment. It is the complexity of this different impact at different levels that makes prediction impossible. The fact that it makes prediction impossible does not mean that one cannot make any sort of judgement and in making a judgement my judgement is that the net effect is detrimental. That, at the end of the day, is what we ought to be doing, I think. I would ask the Government to adopt a fair approach which in a way goes beyond what this motion is asking, Mr Speaker. I know that the motion has been put as a reaction to a particular event but I think we have to start thinking not about the possible damaging effects to the economy and the need to take steps to protect Gibraltar's interests because of the absence of customs facilities. It does not follow that if there were customs facilities the problem would not still be there. I think what we have to say is, let us approach the question of a different type of relationship, commercially I am talking about not politically, let us be clear about that, commercially with Spain and take the worst possible scenario and provide for that. And then if in fact the situation materialises better than we feared, well, that is icing on the cake. But if we aim for handling a favourable impact and it is not favourable we are really caught with our pants down, Mr Speaker, and we are really in trouble then. I think the sort of pre-opening preparations that we have had in all these abortive openings have all given the impression of being on the assumption that the outcome was favourable, with everybody stocking up for everything they were going to sell and so on. With nobody ever saying the problem is not that you have been left with a lot of unsold stock because it has not opened, the problem is that you might well have been left with a lot of unsold stock even if it had opened. I would say that on the question of protecting the economy which is what the Honourable Member called the second part of the motion, I am going to support the motion as it stands and I am not going to amend it in any

way, Mr Speaker, because, as I say, my principle reaction to it is that it is being brought to enable the House to respond to a situation and I think the response of the House should be that in fact that just like they are entitled to do what they like at their frontier, we intend to do what we like at ours. In terms of protecting our interests, quite frankly I think that we can expect nothing else of the PSOE Government other than to make sure that anything that they do at the frontier with Gibraltar if it is not designed specifically to hurt Gibraltar, it will certainly be designed to ensure that any benefit Gibraltar gets will not be at the expense of Spanish interests. Of that we can be absolutely crystal clear, no doubt about that, and that there is no way that we can condemn a Government for doing that because that is precisely the function of Government, to look after national interests. The EEC does not work precisely because of that, Mr Speaker, that is why the EEC does not work, because every Government goes into the EEC with a list of all the things it wants and all the lists are mutually incompatible as nobody is interested in what they can give other people, they are only interested in what they want from other people.

HON P J ISOLA:

The Honourable Member will concede that occasionally the EEC countries do give each other things. It has not collapsed by any means.

HON J BOSSANO:

When they do, they do with a lot of horse trading behind closed doors and with a lot of quid pro quo. In that case, Mr Speaker, one can imagine that by analogy one would then have to start thinking of quid pro quo with Spain. Would that be progress, if we give them things and they give us things. As far as I am concerned, the only progress that there can be, and I am saying in fact that our stand is to say that they put the restrictions and they took them off precisely because we are not prepared to have the Spaniards coming to us with a list of things and let us be clear that this has been the Spanish Socialist position when they were in opposition and when they moved the motion in the Cortes in March, 1980, preceeding the Lisbon Agreement. They said in the Cortes the position must be that dependent on progress at the negotiations, so the restrictions are removed which is exactly the same situation; I give you this and you give me that and horse trading. The Lisbon Agreement did not say that. And, in fact, we have the absurd situation that Oreja, who was responsible for signing the Lisbon Agreement was condemned for going beyond the Socialist position at the time, is now condemning the Socialists for the partial opening. It just shows that what people say depends on where they

happen to be at a particular point in time. But the Socialists could legitimately claim today that the position that they have put forward on a number of occasions since 1980 in the context of negotiations, was to divorce the human communications problem and the separation of families from the question of negotiating where if they are going to do anything beneficial to Gibraltar they want something in exchange. I am not sure that even if they removed all the restrictions that would qualify to be called as doing something beneficial to Gibraltar. There are a number of counts on which one can say we should not give anything in exchange. (a) it is going to bring problems and not benefits, at the end of the day and (b) as a matter of principle there is no reason why one should negotiate other than on specific things. I think that if you are going to have an open frontier with Spain then the only sort of discussion that needs to take place is as I said before, Mr Speaker, the coordination of what is going to actually physically take place at the time that it opens. I still don't know that we have a clear-cut idea of what is meant by the absence of customs facilities. Presumably one could put all sorts of interpretations on it but if there is no customs there, then if somebody goes loaded with videos there must be somebody there to stop them and take them off. Presumably, what no customs means is that they cannot declare what they are bringing and they cannot pay duty but they must be physically stopped and the stuff has to be taken off them so they must go through some sort of search procedure and be told that at this frontier you cannot bring anything into Spain. Is it the Spanish intention to strip people on the way back as well as on the way in? It would certainly be a very unusual thing because I don't think any country objects to visiting tourists taking away from the country everything that they want to take away because everything that they have bought inside the country has already paid the necessary duty and everything else so it would certainly be a unique situation in that respect if people in Gibraltar were prevented from shopping in Spain. Are we saying that if they were not prevented we should then do to our own citizens what the Spaniards intend to do to theirs and to ours on the way in? I do not think we can. I do not think we can even if we want to and I do not really think we should, I do not think one can say that it is wrong for the Spaniards to do it and then go and do it ourselves. I do not think we can, quite frankly, I do not see how anybody can be prevented, if he is not stopped on their side of the frontier, from buying something there and coming here and declaring it and paying duty. What we would be saying then, effectively, is that the point of importation cannot be the land frontier, that is what we would then be saying, but it can still come in every other way as it is coming in today. That, Mr Speaker, I do not think we can do and I think we have to be very clear from the Government whether they think we can do it. (a) somebody

coming along with something and declaring it and paying it, on what grounds can we say that they cannot pay duty and bring the stuff into Gibraltar? I see, then if that is what the motion means, then I think that we have to debate that particular point and take a clear-cut position on it. I am prepared to be persuaded that it can and should be done and I am prepared to take the responsibility for it like everything else. Once I take a stand I am prepared to stand up and be counted. But I do not think we can say: "Well, maybe we should but it may be difficult and perhaps we ought to give it consideration". Either we say we are going to do it and if people don't like it we face them with it or we are going to have pressure from people who are worried that they would lose custom, we explain to them why we cannot do it, but I think it is important that leadership should be given on this occasion and that that can only be given by in-fact grasping the nettle and being clear-cut on it and I cannot see how it can be done but the Honourable Member will have the right of reply in any case before the vote is taken.

HON P J ISOLA:

That is one of the things that we think should be given consideration to. That is, of course, basically whether it can be done or cannot be done or whether there are other things that can be done instead or cannot be done, that is why we ask for urgent consideration to be given to that. But it seems to me that if one country is able to do it to us, in principle, I can see no reason why it should not be reciprocal. That is what the EEC is based on, reciprocity. It can also be on a negative side. I am not saying that that is what should be done. But, certainly, one of the things that should be considered, yes.

HON J BOSSANO:

Mr Speaker, I happen to have just one seat in this House and I have spoken second and it means that it is my only chance of speaking unless I interrupt everybody else. I thought people wanted me to speak that is why I spoke at the time.

MR SPEAKER:

Let it be understood that what I am objecting to is not that you should give way otherwise I would have said so but that there should be asides because it is not conducive to good debate.

HON J BOSSANO:

The overall reaction presented by the mover is fair enough. I am trying to move from the overall reaction to the specific

and I think on specifics if that is something we have to understand that this is something that it may well prove unpalatable to a lot of people but that in fact if we think that this is what Gibraltar needs then I believe in being prepared to come forward and defend unpopular decisions if that is what in our considered judgement is required because after all at the end of the day that is what we are getting paid to be in this House of Assembly for. If people do not like it they can chuck us out and replace us but at the end of the day we have a responsibility to them and they put us here to do a job and that job is that we have to say: "This is what we think needs to be done and that is what we are doing", and I think on this occasion more than on any other occasion we really are required to give some sort of a lead because at the moment people are not sure what the situation is. In a way I agree with the Honourable Member that that lack of clarity about the precise situation in which we are today was reflected in last night's programme. Our own representative there kept on repeating our stand on the Lisbon Agreement precisely because the question of the Lisbon Agreement kept on coming up and there is only one thing we can do and that is bore everyone to tears by saying the same thing on the Lisbon Agreement till kingdom come or until the thing disappears. I think that perhaps the Government itself is in a better position, apart from the question of principle about whether it is right or wrong to do this, and I think on that I would like to expand a little bit because I think the issue has to be considered in that light as well. We are talking about something that will have an economic impact. Let us analyse what that economic impact is. It means that if people go across into Spain and they buy stuff they would have otherwise brought in Gibraltar, if that pays duty then clearly, there must be effective controls to ensure that that duty is paid otherwise not only will the Government be losing revenue but there would be unfair competition on local businesses who would be required to pay duty whilst other people were bringing stuff in duty free. On that I think the position is in no doubt at all. The other situation is, what happens if that is taking place in one direction only? Well, in one direction only the people who benefit are the consumers, the people who stand as far as indirect revenue is concerned unchanged are the Government and the people who will be disastrously hit are the businesses and the shop assistants. That is the three tiers to which I was talking before in general terms and where we can talk about now specifically. In that situation if we take a step to protect one sector then we must explain to the sector that stands to benefit why in the long term it is in his interest not to benefit because in fact he might be getting a particular commodity cheaper and then having to be taxed more to pay for the unemployment benefit of the people who have been put out of work as a result of it. I take it that that is where the

Honourable Mover was hinting at the need to be able to carry people with us. I certainly think we need to be able to do that in whatever we do on this occasion. The other point is if, in fact, it is wrong for the Spanish Government to deprive its citizens of doing it, is it right for us to do it to our citizens? If it has to be done, it has to be done because it is a necessary protective measure but I think we have to be conscious of the fact that we are doing something which we fundamentally must be in disagreement with if we think it is wrong for them to do it to their citizens apart from the fact that it is depriving us of customers. I think the other thing is technically, other than perhaps to say that it is not a point of importation and I am not sure what the law is on whether anything can be imported in Gibraltar in any particular form or from any particular entry point, I would have thought that provided you declare what you bring in and you pay duty, you cannot be prevented from doing it but that technical position whether in fact the Government can say goods can only be imported in Gibraltar through the airport and through Waterport and nowhere else, whether that is something that we are entitled to do or whether in fact somebody can challenge that and say: "I have bought a particular commodity, I am free to buy it and I am free to declare it and I am free to pay duty and I cannot be prevented". I think that is perhaps the first consideration, really, because we need to find out whether we can before we should decide whether we should. I think, Mr Speaker, that again the only other final point that I would like to make is that we tend or have tended in the past on many issues, on the impact of the Common Market and on a lot of other issues, to spend a lot of time debating what we are going to do without actually doing it. Well, we have not got a lot of time left on this occasion, we are talking about days now, so I should think that whatever the Government is going to do they really have to produce record speed on this occasion if they are going to start having any effect because once a situation starts getting established in a particular way there is no way of changing direction, in my judgement.

HON CHIEF MINISTER:

Mr Speaker, the first thing I would like to say on this motion is that it is regrettable that the long established bi-partisan approach to the Spanish matter between the Main Opposition party and the Government has been breached by this motion which has been brought by the Leader of the Opposition without even having the courtesy of telling me that he was moving it, let alone discussing the terms whether they were acceptable to both sides. I do not think that is good because that means that without prior consultation each party has to react according to its own view and according to the approach that it has to the particular

matter and therefore it is no good Mr Isola saying we have to have a Gibraltar view on the matter and pretend that we are going to agree to anything that he moves in order to have a Gibraltar view. We do not agree that there is a Gibraltar view on the matter so far even though the aims may be the same, the attitude to the problem is even within the discussion between the two speakers, completely different. Yes, I will give way now.

HON P J ISOLA:

I ought to tell the Honourable and Learned Chief Minister that the reason why the motion was put in for discussion on the 8th of December was because I heard the Honourable and Learned Chief Minister say on television the night before to the people of Gibraltar that the Gibraltar side would stay open for 24 hours a day and I certainly was not consulted on that and therefore I thought it was necessary to put the motion down for discussion otherwise I would have consulted with him.

HON CHIEF MINISTER:

I did not agree to that, I have got the text of what I said on television from the script and let me say that this was asked within minutes of the announcement, literally within minutes of the announcement and I was preparing for dinner when the crew came along and asked questions. I am not averse to dealing with matters, however urgent they are, if it is in the public interest, but in fairness and as a spontaneous reaction to that, I have got the text here: - "What about the 24-hour opening, that is something new for Gibraltar. Do you think that Gibraltar fears this a little?" I said: "Well, we have provided for that to overcome their age long complaint about the fact that we did not allow Spaniards to overnight in Gibraltar". - Of course I was saying we have provided when we discussed the question of the Lisbon Agreement, and I will come to that. - "I think that it will wear off along, I mean there will be 24 hours a day but really who is to cross the frontier at 3 or 4 in the morning unless it is something very urgent. Presumably, that will mean that people can move about freely and much later but there are quite a number of unknowns and we must see how this works. But as I say, as we have said all the time that the closure of the frontier was inhuman and unjustified. Now they are opening it on their own without reference to the Lisbon Agreement and therefore I think that that is a step in the right direction". There is no specific acceptance in terms, maybe implied, but there is no specific acceptance as a spontaneous reaction to an announcement about their opening it 24 hours at all. So I think that really doesn't wear. The Chronicle was given

the benefit of the tape that I had taken of the interview and that can be verified. I have not been able to give anything to the Chronicle, this is the tape of the interview and that is what I said. How other people interpret ones remark, the Chronicle could equally have heard it itself. As it happened I was asked for a comment, I had no time to provide a comment at that time and I said: "Here is the tape of what has been said", and whatever interpretation appeared in the Chronicle is the responsibility of whoever tried to analyse it as any journalist has to do. This is the text of what I said and if I had to say it again at that time in this situation I do not think that I could have said anything else. That is by way of explanation and, therefore, the Honourable Leader of the Opposition cannot expect agreement to any motion that he considers it pertinent or convenient to put forward, for a number of reasons. First of all, there has been no prior consultation and therefore we react the way we feel we have to react and, of course, there is the virtue that there has been and I hope that there will be to a continuing bi-partisan approach is the fact that there is consultation prior to discussion and consensus view is brought forward that is acceptable to both sides. Unfortunately, whether this happened through misinterpretation or what have you, there was no attempt at finding out. I don't think, with the greatest respect to the media, that we should accept as bible truth everything that the papers publish. They occasionally make mistakes as well so I do not think that that is a good reason for not having asked: "Well, is this what you said, is this your view, has this been your view?" Anyhow, but be that as it may, it does have the effect that in a conflicting and confusing position people are not going to be clearer after this debate than they were before. They may be clearer as to what some people think but they will not be clearer, and they will not be clearer because they are not clear now and I think there is no Gibraltar view on the attitude to the opening of the frontier. There are conflicting views of many people about it. We may be all ad idem on principles, we may all be ad idem on wanting to remain British, we may be all ad idem to protect our economy, but on the question of whether the frontier should be closed there are 120 views and everybody you talk to has a different view and as I said before, reminding myself of that story between Ben Gurion and President Johnson when President Johnson said: "My problems are very big, I have to look after 250 million Americans and yours is very little you only have to look after 3 million". and he said: "No, my problems are bigger" and he said "Why?" and he said "because you look after 250 million Americans, but I have to look after 3 million presidents". Everybody in Gibraltar naturally is a foreign minister in his own right because what is happening in Spain affects him directly and therefore he makes a judgement and he takes a view and he will follow the view that he wants to hear from people and

that is why the Gibraltar problem is so difficult because the same as the Honourable Mr Bossano has expanded with great clarity, if I may say so, but with the usual inability to be precise that all economists have "on the one hand this, on the other hand that". Even my Honourable Friend on my left, he has left the main problem in the air because in the end in the final analysis it will depend on what people do. In that respect I share a considerable amount of the concern of all, of the analysis of the problem, but the analysis of the problem is that we are dealing with a highly emotional situation apart from being a highly economic and important national problem. Therefore, we have to be very careful how we tread on this because we are all uncertain about what is going to happen at the frontier on the 15th. Let me say that that is not confined to us in Gibraltar. It affects the whole of the Campo Area and I am not speaking on any confidential information I receive as Chief Minister, I am speaking on information I receive from sources in Spain who try to get information from Spain which is where the information must come from, and that is that whatever the Mayor of La Linea says, whatever the people say, at this moment they do not know what is going to happen at that frontier on Wednesday. They just do not know and if you hear the Mayor of La Linea speaking one thing that he takes for granted that nobody has mentioned is that there is not going to be any limit in the coming into Gibraltar of tourists and if that is so then what are the economic consequences of thousands of tourists coming for the day and even though they may not be able to take any luggage or any goods, their consumption here, their use, the taxis, the buses, everybody.

HON A J HAYNES:

Mr Speaker, on a point of clarification. Does the Chief Minister have any information as to what is meant by a single pass in a day. Does that mean that a tourist would be entitled to come into Gibraltar but not return on that same day?

HON CHIEF MINISTER:

Very much the opposite. I think that is one of the clearest things that Felipe Gonzalez said. What he said is; what you cannot do is come to Gibraltar, try and get 4 or 5 packets of cigarettes into your pocket, go back to Spain and come again because you cannot take a bag you have got to fill up your body with it. That is what it means. And therefore, as far as people in Gibraltar are concerned I would imagine that that more than covers the humanitarian aspects about which we have been complaining for the last 12 years. We must remember at the time of the restrictions how many people suddenly developed a love for their inlaws

to justify their crossings when other people were not doing it. We are dealing with a very difficult and unknown situation and there are at this moment conflicting forces within Spain to try and make the best, each one according to his interests, of what is going to come out of the wash of what has been said about this matter. You could take the most favourable position. I would take the worst after, I am not going to try and make the thing look very nice but you could take the best possible position and say that the fact that there is not going to be a customs post means that there is not going to be provision at this stage for the export and import of goods in commercial quantities, the sort of thing we were doing yesterday in anticipation of a possible open frontier by amendment of the Trade Licensing Ordinance. That does not mean that when there is no provision for the despatch of goods that there is necessarily a restriction for people carrying their wares or whatever quantity is allowed in the crossing of frontiers. That is not certain, and one thing I know we must be very careful of, and I say so without any apologies, is that nothing that we do here now, between now and Wednesday, can spoil the possibility that anything that is going to be done by the Spaniards which was meant likely to benefit us is done likely to make it worse for us. That is very important and it is very important in the context of the attitude of the British Government who have said all the time, and have reiterated, and I am sure that it has been done this morning in the meeting between Mr Pym and Mr Moran, and let me say that I have not told Mr Pym what he ought to tell Mr Moran, but I have suggested what he ought to tell him. Anyhow, precisely to try and see the best possible interpretation that can be given to the announcement that has been made and therefore we are dealing with unknown quantities, we are dealing with an unknown situation and we must be careful that we do not do anything at this stage, not that the Spaniards will change their minds only, no, that would be bad in itself, but what we must not do is anything that will debar us from maintaining the pressure on the British Government to do what we want them to do on the question of the frontier. I will deal with the question of the economy at large with which I have very little dispute in fact I am prepared to go further than other Members because I am in a position to be able to say what I propose should be done. But on the question of the opening of the frontier 24 hours, I think, and I say so without any hesitation, that any effect, certainly I can tell you now the Government is not prepared to agree to that part of the motion at all. The Government is not prepared because it is an inhibition to the attempts that are being made at the highest level to see that the proposals that have been announced in Madrid are given the most favourable interpretation for what the people of Gibraltar really want and that is free passage, what we have

been saying for the last 13½ years. After all, we have been saying that the closing of the frontier is inhuman, that it should open and so on, and of course it is true that it is limited but I think, and I have said so quite clearly, that it is a step in the right direction towards those who want communications restored. It may not be a step in the right direction for those who do not want the frontier open but for those who want the frontier open, and for those who have been complaining about it, and nobody who has been complaining can now say that it should not open because then he is a hypocrite and has been misleading public opinion over the last 13½ years. That is why I have great reservations about the aspect of the motion that tries to limit what has been given and which perhaps they think that they were doing us a favour. I do not know whether it is or not, certainly I agree with the Honourable Member that it is going to make no difference substantially on one or the other but as I attach great importance to it and I am enforced by the views of the Honourable Member that in respect to the economy it makes no importance, as far as I am concerned that strengthens my attitude on this matter because it is a psychological one and because the last thing the British Government would make it or rather the worst thing that we could have is a British Government thinking that we, as looked from London not as looked from Gibraltar, we are trying to limit the extent to which the Spaniards have opened up on their own without prior conditions when up to now every attitude has been a *quid pro quo*. In that respect I have said to the Spanish media and to every media that has approached me that what the Socialists have done, the Honourable Member has described it one way, I am describing it in another way, what the Socialists have done is what they have always said that they would do and that is that they were divorcing the question of the restrictions from the question of their claim to Gibraltar. They have honoured that, they said that before they went into the elections, they said that before they knew they were going to be elected, they put that in their manifesto and they have carried it out at the first Council of Ministers and that, to me, apart from anything else, is an honest intention, an honest way of describing your attitude to politics and I hope that that augurs well for the rest of the Spanish nation in respect of the new Government which being Socialist or Social Democrat augurs well like all radical movements augur well in the world - Conservatives take note. There is no *quid pro quo* in this offer that has been made. You could say, and there is no doubt, that with the greatest respect, at the highest spheres and a newly elected Prime Minister cannot be in an exposé in a Press Conference, cannot be completely acquainted with all the details affecting the Gibraltar issue. Felipe Gonzalez has had a mammoth election campaign, a mammoth area of big responsibility, planning the whole thing, planning the programme and you cannot expect, in fact, if in

London sometimes you find MP's who ask how long is it since the frontier was open and the frontier is still closed, how can you expect a newly elected Prime Minister of Spain to know all the details. A proof of that was that he said that they wanted to protect Malaga against the heavily subsidised services to Gibraltar, well, I said I wish it were true because we have been complaining about how high the fares are. The other gap could be, if the best interpretation is put to it, is that he thinks that when it was agreed in the preliminaries that if the Lisbon Agreement was implemented and all the restrictions would be lifted that the frontier would be open for 24 hours, he may well think that he is doing us a favour. Let there be no doubt about it, I honestly believe that, I do not think that there is that ulterior motive having regard to the effects that it would have on the economy and I do not blame him for having said that he proposes to protect the economy. He is under great pressure from these people. I heard the Mayor of Ceuta the other day almost crying as if the World had come to an end. He did not cry when we suffered and all the business went over to them but he is crying now, of course, and he has to temper one thing with the other. But I think that whatever we say about that the courage of having at the very first meeting of the first Council of Ministers of the new Government taken a decision on a matter as sensitive nationally as the question of the frontier, I think it deserves credit or a lot of courage. As I say, I do not see in the announcement any attempt at a quid pro quo. The thing has been done ex parte, so ex parte has it been done that the British Government did not know anything more than I did until we listened to what they said after the Press Conference and in fact they had been seeking clarification and the media in the Campo Area has been seeking clarification from very high up and my information is that they will make it public on Monday because perhaps they do not know themselves the modalities because the decree that has to be incorporated to put that into effect is being drafted now and because other things are being looked at to see how the thing is going to work. One thing I believe honestly, having regard to the performance of the Socialist Government, is that they are not going to make fools of themselves by whatever they do at the frontier, I honestly believe that, and whether we like it or not, they will present something plausible. And insofar as saying that they have done that in order that the rest of the world can say: "Well, we have done it", what have the rest of the world done for us when the restrictions were on that we have to worry about doing something to have effect on us. Have the rest of the world cared about us, they have not cared about us. The only people that have cared about us are the British Parliament and in the United Nations the few Commonwealth countries, particularly Australia and mainly the Commonwealth countries who were

prepared to go in with us at the time when Spain was exercising all her pressure to try and get votes in the United Nations. So why should we worry that this is being done by Felipe Gonzalez to put himself in the good books of people who have never bothered about us and who perhaps think today that the frontier is open. I get calls from people from the time of the Lisbon Agreement saying: "I will be going across with my car", I said: "How?" He said: "Through the frontier" I said: "You will have to go through Tangier", He said: "Why?" I said: "The frontier is closed", He said: "But wasn't there an announcement made in April, 1980", I said: "Yes, but one thing is an announcement and the other is opening the frontier". So that is the situation and all I am saying is this - I will come back to the economic problem - all I am saying in this is that the limitations, the attempt at chagrin or at annoyance at what is being done by saying: "No, we are going to keep the frontier as we are now", is going to be counter productive and the practical results are going to be very minimal, if at all. In fact, in some cases I have had it represented to me by parents saying: "Well, first of all, we know and there is no reason why because there is going to be a pedestrian opening only that people are not going to drive in Spain". Of course they are going to drive and they are going to drive hired cars or take their cars through Tangier and have them there and don't we know how many people have been killed in trying to make the gate. Tony Cavilla was one of them and we all lamented his death. He was an elected member of the City Council and a great Trade Unionist. He died because he was coming in a hurry. The same as the other tragedy of the two young men coming in a hurry with a speedboat from Marbella in order to make it for the Casino opening at 9 o'clock. That is one danger, the other one is that if you do not make it you stay there and that may be much more worrying for a mother that her son should not come except that he would come a little later. There are many aspects, many human aspects of this, it is too involved to be able to make a judgement on this matter and the people are confused, divided, anxious, desirous, all sorts of things, because whatever may be said about it the question of the relations with Spain and the question of the opening of the frontier, whatever we may be discussing in Gibraltar in the interests of Gibraltar, whether it is Development Aid, the Dockyard or whatever it is, important as those things are in the final analysis when the people start thinking at the end of the day and if that is on the carpet, that takes precedence. It may be a masochistic way of looking at the matter but it is so, it is a fact of life. Now let me deal with the economy. The motion urges us to give urgent consideration to the possible damaging effects to the Gibraltar economy. I had the same qualms about the first part of the motion that the Honourable Mr Bossano has

mentioned that so long as there is only a partial opening we should take care. I do not agree with that, we will have to take care in any case but I am not dealing with that because I concede that the intention of the motion is ad hoc to the situation and not generally. I hope that the mover concedes that steps have got to be taken to protect the economy anyhow but that this is done specifically for the purpose of this motion so I do not propose to interfere with that. I give that interpretation to it which I think is the most favourable interpretation that can be given but I take the point, I did worry about that part of the motion at the beginning because I do not want the motion to limit it in any way to the fact that the frontier is going to be open on a temporary basis because in fact the whole study that was carried out after Lisbon and so on has been on the basis of what we can do to protect the economy in a complete open frontier. And though again there are many people who will benefit, many people will be prejudiced, the overall judgement that we arrived at is that initially it was going to be adverse to the economy of Gibraltar anyhow with a full opening of the frontier. So that is a matter we have to face, it is really a matter that we must all take into account. The question of what measures are to be taken to protect the economy, I am afraid it is very difficult at this moment to judge because we do not know what the result of the opening is going to be but I would like to give an assurance to Members and to Gibraltar as a whole that the Government within the powers that it has and if necessary seeking any powers that it may not have, will take whatever steps, conventional or otherwise, are necessary to see that the opening is not done or cannot be used in a way that will completely unbalance the economic situation contrary to the interests of Gibraltar. It is very difficult to say that we are going to make sure that there is no effect on the economy, it is impossible because of all the difficulties that the Honourable Mr Bossano has mentioned because the attitude of people is unpredictable but insofar as it is possible we shall take whatever measures, however strict they may be, if the intention is as is presumed by some people that this is done as a measure of compromise but particularly to do that. I look more at the positive one and that is why in the amendment that I have which I have to move the deletion of those words, I have words to add to say that we will take whatever steps are required, in the same way as the Spaniards are taking steps to protect the economy of Ceuta, Malaga and the rest of Spain, it has to be taken at a national basis and that is what we will do. And, of course, the measures that have to be taken will be taken and have no bearing on the question of the opening hours because whatever opening hours are operated the adjustment of the measures that we take will be geared to those opening hours. Whether it is open for one hour or for twenty-four hours it does not matter, the measures will be there because if the effect is going to be felt it

has to be countered by measures that have to be taken. In fact we will take it whether there are Spanish customs facilities or not because that is our mission and that is our duty and we hope that we do not have to take measures which are against the comity of nations because measures are taken which are against the comity of nations by the other side. If they were and we were told that this is wrong we would fight for them to be introduced because that would be attempting to defend our economy in a difficult situation where we have to protect the economy of 35,000 people against the economy of a country of 35 million people. I think, Mr Speaker, that I have covered all the matters that I think that have been raised in the interventions that have taken place and I am grateful to the Honourable Mr Bossano for having spoken earlier as I invited him to do because otherwise the reaction of the Government could not have been taken in the wide way in which I have done so. The question of the opening of the frontier or the closing hours of the frontier is really a non-defined domestic matter. That does not mean we cannot talk until doomsday about it but in the final analysis that decision is a Foreign Affairs decision and not a Gibraltar decision. That, of course, does not prevent us or any Members who feel differently in one way or another to make those views known to the British Government. As far as this Government is concerned whilst our relations with the British Government are as they are now which are good - I will just keep it at that for the moment, I do not want to say very good so as not to put too many hopes in other aspects of the matter - we shall certainly and they will take note of what has been said here but we shall certainly not want to undermine in any way by any decision collectively taken here, undermine what we consider to be a strong valid responsible position by imposing as a view from this House matters which I do not think are in the public interest and that is why I object to the words regarding the frontier because I think, and I am not saying this in any way subservient but in the general interest of Gibraltar, I think that would prevent knowing that the British Government is set on having all the restrictions removed, that being the view of the British Government, to try and urge them to do something that they think and I am sure they think, I am quite sure they think, I have not asked them, I do not want to ask them, I make my judgements not what they tell me, what I think is going to be good for Gibraltar, I think that that would be taken not with the spirit perhaps, I will give that credit with which it is done, but at a distance with a negative attitude to the response on what they consider to be at least a beginning of a gesture on something on which we have been complaining for the last 13½ years. Mr Speaker, I have an amendment to propose to the motion in order, hopefully, that the motion will pass having heard what I have to say, that the motion will pass in a way that will show at least

some leadership from here in a way that is not controversial. The first one is for the reasons I have explained, I think, quite clearly, delete the words “the Gibraltar side of the frontier should continue to open and close as at present and further that” and add at the end “in the same way as the Spanish Government has been concerned to protect the Spanish economy and that of Malaga and Ceuta in particular”. The motion would then read: “This House considers that so long as there is only a partial opening of the frontier, urgent consideration should be given to the possible damaging effects etc.”, and as I say I qualify that by saying that the need will arise anyhow but we are dealing with the situation as at present and then add at the end as stated. I was speaking completely without notes but I have just looked at another of the questions that I was asked on television and it is precisely what I was saying, I was asked: “Do you think it is a genuine step in the right direction?” I said: “Well, it looks genuine so far. I think that everything that Felipe Gonzalez has done appears genuine, as he has been as good as his word. He has done exactly what he said before he went into office which is something that not all politicians do. They say something when they are outside office and they are different when they come into office. In this respect I give credit to him for having done precisely what he said he would do before he knew he was going to be elected. My thinking on that is as clear as my response to the question of the opening of the frontier. I was commenting on his offer and was not giving any particular attention or concern about that. What do you think about that? Well, this is what we have said before, this is the concern. I am sorry that there has been some misunderstanding from misquoting, I hope that will explain that I have always been consistent in my attitude in this matter. Mr Speaker, I commend the amendment.

Mr Speaker then proposed the question in the terms of the Honourable the Chief Minister’s amendment.

HON A J CANEPA:

Mr Speaker, could I have some guidance from you because sometimes when we have a debate on a motion and there is an amendment, you allow the debate discussion to range over the original and over the amendment and the motion as it would look after amendment provided that the particular speaker does not speak twice. If you are going to be liberal in the application of the rules, I would be very happy to support the Chief Minister at this stage in my capacity as Minister for Economic Development and Trade. If, however, you are going to apply the rules strictly and just going to limit debate to the amendment, then I would rather stay back and not lose the opportunity at this stage.

MR SPEAKER:

I wanted to make clear to Members that they cannot have two bites at the cherry if at the time that they are talking to the amendment they say what they like and then later on say they have not spoken to the general debate. Any Member wishing to speak to both now will forego his right to speak to the general question before the House and I am quite happy to see that happening but we will not have a Member getting up, speaking on the amendment, saying what he likes, and then repeating himself when we revert to the general debate.

HON A J CANEPA:

Sir, I think it is unfortunate in a way that this motion has come to this House without prior consultation between the Government and Opposition and it has become somewhat clearer as to why that happened and I hope that what I am going to say now about the media, and in particular about television will not be misunderstood, will not be misconstrued in any way. This is something that is always liable to happen when politicians are under pressure to express their views at the earliest possible opportunity and to comment on events or in statements which are made outside and which affects us. Unfortunately, it may not always serve the best interests that that should happen. I can understand that television have to work to a deadline and also newspapers which are dailies. The Gibraltar Chronicle, for instance, has to appear the next day and we do not tend to get the same pressure from the weekly newspapers. This is an example of what can happen and which is unfortunate. I remember that on June 21st when it was announced at mid-day that the frontier was not going to open on June 25th, that very afternoon there was pressure on the Government to come out with a statement as to what was its attitude to the non-opening of the frontier. We were meeting in the Chief Minister’s office that afternoon and there was more than one interruption because GBC wanted to have a statement and what Ministers were discussing was precisely what was our attitude and what was going to be said in a statement. A statement which was made in those circumstances as a result of discussion by Ministers would be a considered statement of Government view, of Government policy, and not just a reaction which one makes off the cuff in answer to a question which very often one does not see before and one is expected to react on the spot. I can understand the Leader of the Opposition thinking that here you are, the Government had taken a decision that the frontier was going to open on a 24-hour basis, he had not been consulted. The Chief Minister had not spoken to him, the Governor had not called him in, in exercise of the constitutional position to acquaint him with the attitude of the British Government and to get the views of the Leader of the Opposition on the matter. I can understand how misunderstandings occur and therefore I am taking the opportunity to ask

the media and in particular television, to try and be more understanding, to try to be more flexible, to allow time for matters to be considered before we are expected to make a public statement on the matter. I can understand that they may be suspicious that, for instance, the Government Press Officer is keeping something from them but that is not always the case. There are many occasions when we simply do not know and this is at the moment such an occasion. I have been asked to go on Round-Up tonight with a representative of the Trades Council and of the Chamber of Commerce and I believe that they want to get the Commissioner of Police in as well, if that will be possible or not I do not know, what has come through to me is to discuss the effects on the economy and to discuss the practical arrangements. Well, I do not know what the practical arrangements are going to be next Wednesday and I am not going to be able to say anything more this evening if the programme goes ahead than what I am saying now unless, of course, in the course of today some information comes through from the Foreign Office arising from the meeting which Mr Pym will have had with Señor Fernando Moran. If something comes through I will be in a better position to react but I am not at the moment able to do so. I think that it can be counter productive to try and have a discussion on television of a matter which is of great concern, it can be counter productive in the sense that if we rush it we are not in a position to clear matters and to give the kind of leadership that people expect and the net result can be that the situation becomes even more confusing as I am sure is the result now after last night's programme. I do not think that that was of much benefit to anybody, quite honestly. But, as I say, Mr Speaker, I hope that my remarks will not be misinterpreted, the media have a very valuable role to play in communication, in getting news and comment to the public, and they have the role to play which I would hope will complement and add to the role that we politicians have to play and that the objective, I think, must always be to serve the best public interest of the people of Gibraltar particularly in the very difficult circumstances which the people of Gibraltar have been under for many years and particularly at this very critical juncture in our history. Whatever the situation might be at the frontier, whatever the nature of the opening would be, the Government has of course the duty to consider the consequences and to take whatever measures may be necessary. When it was envisaged that the Lisbon Agreement was going to be implemented 2½ years ago, the Government naturally took the necessary steps to get a Government view and to have a Government decision on the very many matters that were likely to affect the people of Gibraltar and on the very many matters that were likely to come up in the course of discussions following the implementation of the Lisbon Agreement. We went into great detail on that. Negotiating briefs were prepared which in the event when the initial

meetings did not take place and then it was announced at the beginning of this year in January by the then Spanish Prime Minister that the frontier was going to open on April the 20th, in the intervening period, naturally, we have had more time to look into matters in much greater detail and to sharpen up our position on these matters. I think the Leader of the Opposition is himself aware of the fact that over 20 negotiating briefs were prepared giving our attitude and our approach under very many headings, a great deal of homework was done and we were in a very good position to face whatever might come in the course of negotiations. I do not think that we would have been able to cope with every aspect of a full frontier opening, for instance, the traffic problem, and that is because Gibraltar, whenever the frontier opens to full vehicular traffic, Gibraltar will have to face a situation which it has never had to face in its history before. There have never been motor vehicles coming through from Spain into Gibraltar in the sort of numbers which one imagines will occur. We have never had to cope with that sort of situation and as I was always constrained to tell Ministry of Defence representatives who have always had more land than we have at our disposal, we do not have the resources. We need to have more resources and that was the point we were always making in bringing pressure to bear on them. But if steps had to be taken to protect the economy by the provision of car parking at the expense, for instance, of sporting facilities, when what happened was that there was public reaction against that, pressure groups reacting against that and the point that we are making in the House today was not perhaps completely appreciated that steps had to be taken then against that scenario to counteract the adverse effect on the economy of a situation in which there was an outflow of people and capital from Gibraltar into Spain, people going over, spending a lot of money in Spain and not giving facilities to numbers that would compensate coming into Gibraltar, tourists being able to spend money here, being able to park their cars in order to take goods in their cars over to Spain so that at the end of the day the equation was at least as reasonably well balanced as possible. Today we are more aware of the fact that perhaps because of what may happen on Wednesday we need to convince people that the steps that may have to be taken are in the overall public interest. I needed to remind the House that there has been a lot of reaction against other measures in the past and whilst the Government does not have the monopoly in respect of everything that it does is correct, nevertheless we did come under criticism and we came under criticism in this House because of some of the measures that were contemplated. I would hope that we do not have a repetition of that and that we do not just criticise for the sake of scoring debating points and that there should be more consultation outside this House in order to try to arrive at the preferred approach. The impression I think, Mr Speaker, has been given

that nothing has been done in the last 2½ years that we were not ready. Mr Hoare, on television last night, connected the committee which is sitting and making at this moment very considerable progress on the question of Spanish access to the EEC and the problems that that will pose for Gibraltar, with the opening of the frontier. One thing has nothing to do with the other. The man was totally misinformed but that is where we can do harm inadvertently. I am sure that Mr Hoare did not go on television last night purely for the sake of hitting at the Government saying that the Government has done nothing, no, I give people more credit than that. I am sure that it was inadvertent. But it happened. What we have had is a committee that was looking at another aspect of the situation more from a long term point of view and which let me say publicly is more important because what can bring Gibraltar to its knees is Spanish access to the EEC if we are not able to counteract the effect of that. But, unfortunately we still have some time before that happens. But that has nothing to do with the question of the frontier. Another gentleman on television last night said the Government have introduced no legislation to protect the economy. That is nonsense. The Honourable Mr Bossano asked the Government to introduce a measure of legislation which was intended to protect our labour market. The Leader of the GSLP himself asked that that should be done and the legislation was brought at the last meeting of the House increasing fines very considerably so that employers are not able to employ Spanish labour illegally, which could happen next Wednesday, it was very timely that we should have done that because Spaniards can come in in the morning, take up casual employment and go back in the evening or stay here till the next day. So there was a need to strengthen the legislation, there is a need now to employ more Labour Inspectors so that they can go around and ensure that this does not happen because it can have a very harmful effect on the economy. At this meeting of the House we have brought legislation on the question of the importation of goods in commercial quantities. Prior to that, let me add, and well over a year ago, we have taken administratively and through regulations the tightening up of regulations on import control, steps that would have prevented anybody from Spain coming in or a Gibraltar business interest going over and getting a lorry and packing it with goods and just bringing it over, casually, in order to flood a particular market. That step had previously been taken. Measures had been taken, for instance, to protect on the question of the importation of bread. Not because one wants to prolong in Gibraltar a situation in which bread is sold at the price at which it is being sold. But the fact of the matter is that bread is much cheaper in Spain and I am afraid that the interests of consumers in Gibraltar, of consumers of this commodity, had to take second place to the interests of the need to protect an industry, to protect within reason, an industry which could collapse and if it had

done so we might find ourselves back in the situation that we were in 1969 when I remember we used to go to North Front to some warehouse or other where army cooks were baking bread for us to buy. Bread is very heavily subsidised in Spain and even if the Socialist Government were to remove the subsidy the price of bread would still be very much lower than in Gibraltar. But, people might say: "Well, there you are, the Government is protecting monopolies or quasi monopolies. The matters have got to be weighed up and in the same way as it is done with bread it might have to be done with something else. The interests of consumers cannot be the overriding factor, they must be weighed up against the interests of the economy as a whole and in the interests of taxpayers, generally, and the general body of Gibraltarians. If there is, Mr Speaker, normal two way traffic of goods on a pedestrian basis, fine, but otherwise, of course, we are going to have to take measures to protect ourselves. I do not know to what extent even yet the new Spanish Government has thought this through. Is it suggested that Gibraltarians going over to Spain to spend a long weekend with relatives in La Linea should go empty handed, just with what they are wearing? Aren't they supposed to take a small suitcase over with clothes or a big one if they are going there for longer? Is it suggested that someone going over to Spain should not buy a pair of shoes or the other way round, that people from Spain should not come here and buy a suit of clothes? I do not know, I wonder whether the matter has even now been thought through to its illogical consequences, I would say, because if all that is going to happen is that people are supposed to take over a passport and a fat wallet then we shall have to see about that. That is what those of us who went to Cyprus thought that we should recommend to tourists when you go to Cyprus, just take a wallet or a Barclaycard and your passport and stock up there. I am sure that that cannot be intended, it just does not make sense that that should be the case and I would imagine that what the Spanish Government has in mind is that there should be no movement of goods in commercial quantities. I am sure that they are going to have, if not for Wednesday, certainly very shortly after that, I am sure that logic demands that they are going to have to allow people to make private purchases and to be able to take those across with normal customs conditions. If that is not the case I think that we are going to have very, very serious difficulties and against that scenario I think that the adverse effects in the short term of any opening of the frontier we are told is likely to be negative but if there is that kind of normal traffic I think that they will be much more greatly reduced because the consultants on the Dockyard took the view that with a full opening of the frontier because the economy of Gibraltar had been distorted in the last 13 years and because we were not geared up to taking full advantage of an open frontier, they took the view that initially over the first couple of years or so the net result

would be negative but then we would begin to adjust, we would have time to take the necessary steps in Gibraltar to be able to take advantage of the opening of the frontier and therefore on a medium long term basis the results should be positive. I think the same considerations apply with a pedestrian opening in the terms which I have suggested but to a lesser degree, in other words, the negative effect over the first couple of years, the adverse effects, will be there but in a much smaller proportion because the amount of goods, the amount of movement will be lessened than if there were to be vehicular traffic. To that extent I agree with the Honourable Mr Bossano that it is not a bad thing because instead of losing £2m a year it might be a case of £200,000 a year and we might well be able to bear that. I think, Mr Speaker, that we are very much crystal gazing as to how people are going to behave, what are people going to do in this situation, and we ought to remind ourselves of what they have done in the past. It is extremely difficult to predict what people will do. I get people coming up to me, friends, and saying: "What are you going to do when your sons say that they want to go over to Spain?" And I tell them, and this may amaze people: "The problem does not arise. My sons will not yet for some time be even thinking of going over to La Linea". Why not? Because they have never been there in the past. When I was their age I had been used for 12 or 13 years to go over to Spain, learning the ropes, learning the place with my family but they have never been there, my sons have never been out of Gibraltar without their mother and without their father and it will not arise from them, they will not ask to go. In time to come, after they have been with their parents or with other adult members of the family, of course, they may begin to go, it is like a nestling which needs the parents initially and then is able to flex its wings and is able to look for food and hunt on its own, exactly the same situation. I am not going to say that there are not other younger people who will be colder, of course, and therein comes the problem from a personal security point of view and from the peace of mind of the parents. We are attempting, I think, to predict a general pattern of behaviour involving the vast majority of the population when that may not be the case and if we cast our minds back to the past we can see it. Between 1954 and 1957 many people from Gibraltar did not go to Spain. I remember never going myself until I was 17 or 18 for a period of about four years because there was a campaign against us and because there was reaction within Gibraltar and a campaign led by people within Gibraltar to boycott going over to Spain and that was at a time when the restrictions were not anything like what they were to become in 1964. Between 1957 and 1964 matters eased, it was easier to go over and people started to buy motorcars, the standard of living improved and a lot of people started to go over. Then in 1964 long delays were applied at the frontier to vehicular traffic and again a lot

of people stopped going. A lot of people used to go across through the pedestrian route. In 1966 the frontier was closed to all vehicular traffic and I would say that the majority of people in Gibraltar stayed at home, they did not go over to Spain other than a few thousand who had relatives in Spain, who needed to go over for some reason or another. Those were the days when people in Gibraltar were not able to afford to go on holiday to the extent that they do now and then of course came the final closure in 1969. Today, of course, people have more money, people want to go on holiday, people can make arrangements to walk across and take a holiday in Spain. But if we find between now and next summer that the situation is affecting us very badly then the Government has a duty to consider taking the most serious steps that are necessary and I would not hesitate personally from going as far as we need to, for instance, on introducing exchange control. The British Government had 10 or 15 years ago to introduce measures preventing people, not allowing them to take more than £50 I think it was and we may have to do something similar. One does not like to have to restrict personal freedom in that way, it can be dangerous, it can have other consequences but what we cannot allow, Mr Speaker, is a situation in which thousands of people from here were to go over to Spain on holiday for three or four weeks, for a month, take a great deal of money over, spend all that money across the way, if there is not going to be some element of reciprocity, if people are not going to be allowed to come into Gibraltar, spend a week here, spend a fortnight on holiday because that is going to affect Malaga airport. If that is the attitude of the Spanish Government we will have to make up our minds as to what we are going to do as well. Now, the actual times during which that frontier gates remain open, Mr Speaker. If measures have to be taken from an economic point of view, I think that there should be general agreement about that but I am not sure to what extent the time of opening and closing of the frontier gates whether it is opening on a 24 hour basis or not, has as much to do with the damaging effects on the economy but with the question of security, security from a general point of view and from a personal point of view. But if that is going to be the sole criterion then what we ought to say is that there should be no full opening of the frontier, we should not have vehicular access into Gibraltar because then our security can be undermined to a greater extent because a car could be brought in with a bomb, parked downstairs in the House of Assembly and the bomb goes off and so do we. In that case if that is what we are worried about, keep the frontier gates closed or only allow pedestrian access because the extent to which that can happen is less. That should not be the sole criterion, neither should we be worrying about what our children are going to be doing in Spain at one or two in the morning, that cannot be the sole criterion because those considerations apply to a much greater extent to the full opening of the frontier. There are wider

aspects to be taken into account, there is the question of human rights and these are, I think, all of them much more important. But in the light of events we may find that we have got to do that, we may find in the light of events that we have got to press the British Government very, very hard so that they will see things from our point of view and not as they are seen from Whitehall should events so demand. I think what there is, Mr Speaker, to sum up, is the need for a step by step approach, measure for measure in accordance with the attitude of the Spanish Government and in accordance with their approach to us, always guided by the overriding consideration to ensure that what the Spaniards have not achieved with a closed frontier they must not be allowed to achieve either with a fully opened or with a partially open frontier. Thank you, Mr Speaker.

MR SPEAKER:

I would like to take the feeling of the House because it is one o'clock. Are there going to be many speakers.

HON P J ISOLA:

May I say, Mr Speaker, as far as the amendment to the motion is concerned, what we are proposing to do is exactly the opposite to what the Honourable Mr Canepa has done. I was proposing to reply to the amendment and then the other Members on my side if they wish to speak will probably speak on the general motion.

The House recessed at 1.00 p.m.

The House resumed at 3.35 p.m.

MR SPEAKER:

I will remind Members that we are on the amendment to the motion moved by the Honourable and Learned Chief Minister.

HON P J ISOLA:

Mr Speaker, I am going to address myself to the amendment. I do not propose to comment on what the Minister for Economic Development has said which I think goes to the general issues in the motion except to say that it is amazing how often the press and television have to be told that they have not said what apparently it was intended to be said and I am afraid that in the case of the Honourable and Learned Chief Minister I myself saw him on television and I have a clear recollection of what he said on the Tuesday night and I notice he did not read the part from the transcript in which he said: "Yes, we will open, we have got the police and we have got the customs

all set up for the 24-hour opening". The impression he gave, whether he intended to give it or not, to me was absolutely clear: "We on our side will open for 24 hours". If that is not a breach of the bi-partisan approach I do not know what is, Mr Speaker. It is an important matter because he himself said during the address that nobody knew what was going to happen, he did not know, the British Government did not know until the Spanish Prime Minister announced it himself at the Press Conference on that Tuesday night so that his reaction was his reaction, he was not reflecting the British Government attitude to the announcement of the opening, it was he who committed the British Government and Gibraltar to the 24-hour opening that night and it is because of that that he carries on with it. I think it is a smoke screen when he starts talking about the British Government and we having to go along with the British Government. The British Government has not said that the frontier should stay open as from next Wednesday 24-hours a day. What the British Government has agreed, to my knowledge, is that the frontier should stay open for 24 hours a day once there is normality at the frontier, that is as far as the British Government has gone. I went to see the Governor and the Governor invited me to see him on the 9th December, that was yesterday, and he gave me information. He did not tell me: "We propose to keep the frontier open for 24 hours a day". This is not part of the British plan for this particular opening as far as I am aware so let not the Chief Minister say to this House, put to us that this is really the British Government viewpoint and we have to be careful, after all, we rely on them and I agree entirely we do rely on them but then we should take heed of what they think and we should take heed of what their views are. As far as I am aware, Mr Speaker, the question of the Gibraltar frontier staying open for 24 hours has only been raised by the Chief Minister himself in that television interview, that is my position, so I am not undermining the British Government position at all, I think the British Government's position has been undermined by the Honourable and Learned Chief Minister and unfortunately the position of Gibraltar has equally been undermined. I will quote what the Chronicle, apparently, got all wrong.

HON CHIEF MINISTER:

I object to that, Mr Speaker. I have said that the Chronicle had had the script of my interview and nothing else. What the Chronicle interpreted, as far as I am concerned, is of no value. I have got the script here.

HON P J ISOLA:

I wonder who gave the script to the Chronicle. Who gave the script to the Gibraltar Chronicle?

HON CHIEF MINISTER:

I did.

HON P J ISOLA:

Ah, the Chief Minister.

MR SPEAKER:

You are entitled to quote what has been published if you so wish.

HON P J ISOLA:

All I am doing is quoting from inverted commas and the Chief Minister can look at the script and tell me if I am quoting correctly, when the Chief Minister said: "We had allowed for that to overcome the age-old complaint about Spaniards not being allowed to stay in Gibraltar overnight". That is in inverted commas, perhaps the Chronicle got it wrong.

HON CHIEF MINISTER:

It has not got the question there, has it?

HON P J ISOLA:

"The Chief Minister said that the 24 hour opening on the Spanish side had been provided for in past discussions in connection with previously announced openings which had not materialised".

HON CHIEF MINISTER:

That was not the question. I am going to try and have a copy for you. The question was: "What about the 24 hour opening, that is something new for Gibraltar. Do you think that Gibraltarians fear this a little?" I said: "Well, we had previously provided for that to overcome their age-old complaint about the fact that we did not allow Spaniards to overnight in Gibraltar. I think that it will wear off along, I mean, there will be 24 hours a day but really who is to cross the frontier at three or four in the morning". I was saying what the Spaniards were saying, I don't mind, he can give whatever interpretation he likes to it.

HON P J ISOLA:

No, I am not giving interpretations, Mr Speaker, I am just saying what he was reported to have said in inverted commas, they had the script: "We had allowed for that to overcome

the age-old complaint of the Spaniards". Of course, that had been allowed in terms of a normalisation after many months of discussions to meet the Spanish complaint, put it that way, about overnighing. This was a concession, put it that way, in other words, to show Lisbon Agreement means complete opening of the frontier, relaxation of all restrictions and to show that we do not discriminate against Spaniards as against anybody else, we have a 24 hour opening but that was in connection with Lisbon, Mr Speaker, not in connection with a pedestrian opening of the frontier. The Chief Minister has tried to introduce the element of British Government thinking into this about which I certainly have not heard because the British Government's position, as far as I can see, has been fairly consistent and it has been: "it is either everything or nothing, there are no discussions, there is nothing until Lisbon is implemented". What the Chief Minister is trying to tell the House, put a word of warning: "If we are not good boys we cannot expect the British Government to support us on this". The trouble here is that he stuck his neck out as a result of the statement made by Felipe Gonzalez without any consultation with the British Government, with anybody, because the interview came immediately after the announcement by Felipe Gonzalez and he himself had said that not even the British Government knew what was going to happen or what was going to be said and he said this and now we are stuck with it because he said it now he commits the whole lot of us.

HON CHIEF MINISTER:

I do not commit you but I am not prepared to commit myself to what you think.

HON P J ISOLA:

This is what happened because the Honourable and Learned Chief Minister knows very well indeed that there is great dissatisfaction in Gibraltar, not with the pedestrian opening, there is great dissatisfaction as to the manner of opening as it has been announced, Mr Speaker. It is all very well for the Chief Minister to say: "I have a lot of respect for Felipe Gonzalez, he has done what he said he would do at the elections". But he does not say that he has not done what his Foreign Minister said he would do in "Man Alive" in July, 1982, when he said: "We will remove all the restrictions if we go in". He does not mention that inconsistency and then he relates what the Spanish Prime Minister said during the election campaign to what was said by the Socialists in 1980 before Lisbon, when they took up the same stand as Señor Fraga Iribarne on the question of a step by step opening. And what they said then was, the reason for a step by step opening was; "We take one step, let us see what steps you take before we take another step".

That sort of policy is entire anathema to our point of view. That is exactly contrary to what the British Government stood for and what we in Gibraltar have stood for. The restrictions have nothing to do with the issue of sovereignty or anything else. You put them on, you must take them off. It is not correct to say the Socialist have been consistent, it is not correct to say it. And it is all very well for the Honourable and Learned Chief Minister as, indeed, if I may say in a small aside for the Minister for Economic Development, to say we do not know what is going to happen, we do not know what is going to open, and to put an optimistic slant on it, when we have the clear cut statement of the Spanish Prime Minister of his intentions as far as the Spanish Government is concerned. He declared them. "We want sovereignty within this decade. We are going to allow the opening of the frontier for humanitarian reasons but we will not allow Gibraltar to benefit economically from it". This has been said in clear, straight language, Mr Speaker. It could not have been made more clear by Senor Felipe Gonzalez as to what he was going to do. And the amendment of the Chief Minister recognises that fact because he adds the words to my motion. He is talking about being diplomatic and he becomes undiplomatic in the motion when he said: "In the same way as the Spanish Government has been concerned to protect the Spanish economy, and that of Malaga and Ceuta in particular". Why does he do this? Why does he pronounce this what I would call an act of faith in Felipe Gonzalez, because that is what he is doing. He said: "I have got to give it to the man. He has done what he said he was going to do". An act of faith in Felipe Gonzalez. Mr Speaker, I do not mind the Government having acts of faith in the British Government. We do not mind that but the speech of the Chief Minister was an act of faith in Felipe Gonzalez and to that we object, Mr Speaker, we object because Spanish Governments have said we will do this on such a date and they have not done it, we will do that on such a date and they have not done it. What has been pronounced by Felipe Gonzalez in the Cortes was a continuation of the 1980 Spanish debate of a step by step removal. That is what I think he announced. Not what was said by the Spanish Foreign Minister elect at "Man Alive" when he said: "We must take away all the restrictions altogether". And what has happened is, Mr Speaker, that we have been saddled now, we have been saddled now with a form of opening on our side that was only intended in a normal frontier situation against which the great majority of the people of Gibraltar are opposed. I have no doubt about that in my mind. I have had people coming to me over lunch today.

HON CHIEF MINISTER:

That is why you moved the motion because you go on with the tide.

HON P J ISOLA:

And because I feel strongly on it. That is why the motion was put in the very next morning. That motion, Mr Speaker, was a reaction to the Chief Minister's breach of the bi-partisan approach and his statement on television saying that we will open 24 hours a day.

HON CHIEF MINISTER:

Mr Speaker, he keeps on misquoting. It is very well to get excited but he keeps on saying that I said that we were going to open 24 hours a day, I never said that. The text is here for anybody to see.

MR SPEAKER:

Under the circumstances I think the Honourable and Learned Leader of the Opposition on the information and evidence that he has can interpret it in a particular manner. You will most certainly have the right to reply which will enable you to put matters as you see them.

HON CHIEF MINISTER:

But he can repeat the wrong thing 20 times and it is incorrect.

HON P J ISOLA:

Well, Mr Speaker, I heard the Honourable and Learned Chief Minister. I saw him, I am not a fool. I think I understand the English Language. I may not be as adept in the Spanish language as the Honourable and Learned Chief Minister and my Honourable Friend Mr Bossano are, I know I am not, but as far as the English language is concerned I understand the meaning of words and I got the impression, and it was as a result of that that I came rushing to this House on the 8th and put a motion in precisely, in an attempt to avert what I thought was a wrong Gibraltar situation and since the Chief Minister had made these remarks quite unilaterally and without previous consultation, I felt and I am sure the House will agree, perfectly justified in bringing it to this House because we happened to have a meeting in this particular point of time. It is true, Mr Speaker, and in fact the Minister for Economic Development said it, he said we would have to see what happens. It may be that we will have to change. Yes, that is absolutely true. But did anybody ask us to keep our frontier open for 24 hours a day? Has anybody asked us this question? No. Did the Spanish Government consult before saying they would keep it open for 24 hours a day? We have had our frontier open for whatever it is a day,

12 or 18 hours a day, for 13 years. They have taken no notice of that. They have not opened because we have kept our frontier open. But we as soon as they say we are keeping it open 24 hours we jump and say: "Well, the question of over-nighting was a problem with them, we will now cooperate". We object to that, Mr Speaker, and I think any thinking person in Gibraltar will object to that, too. If the British Government comes to us and says: "Look here, the Spaniards are going to keep it open for 24 hours. We think that you should consider this yourselves". After listening to our arguments because I have made the representation to the Governor, I told him on Thursday, my views on this. A bi-partisan approach is not just information, it is also consultation. The Spanish decision was made on Tuesday, we did not have to announce ours that same night. And if the British Government thought that, they could have come to us and said: "What do you think? And I could have said: "Well, I think this". As I have told the Governor on the 9th. I think it should not be open 24 hours a day because this is a partial opening of the frontier, it is a unilateral act, alright, it is an act of goodwill, it is an act of good faith, so be it, but I will be convinced when I see it. I will be convinced that it is an act of good faith when I see how it operates. And if it operates in a way that is perfectly reasonable, then I will say fine, alright. But we do not know, Mr Speaker. Even the Chief Minister himself has said it, we do not know. What we do know is the statements that have been made. The statements that have been made show a remarkable amount of knowledge about the situation of Gibraltar. Why does the Chief Minister think they said only one visit a day? He himself has provided the answer. We know the situation, we know why he said that. But Señor Felipe Gonzalez, Prime Minister, President of the Government of Spain, with all the problems he has got, he picked that one out. He has really done his homework Mr Speaker, hasn't he? That indicates the manner of opening to me. That indicates it. That indicates Centas's influence, if you like, and everybody else's influence. These people must not benefit, must not benefit from the opening. That is not a friendly act. I do not agree with my friend Mr Bossano. Of course every country looks after its own interest, that is natural. Of course in England and in the European Community they fight for things and they argue and they negotiate. It is part of the essence of being. But you do not tell another people: "I will not allow you to proceed and lead a natural life because that is going to bring you benefit. Not going to prejudice me, but going to bring you benefit", which is the manner of opening. That is why we say, let us not have a friendly response, if you like to call it that, until we know that it is a friendly opening. We just do not know and in my view the frontier has been opened unilaterally, even the overnighting problem is a problem of Lisbon and not a problem of a partial opening. And let me see when

there is full normalisation, then we will deal with that problem but not now, Mr Speaker. I think the Chief Minister does no service to Gibraltar in insisting on his amendment because he knows that if he agrees to the motion as drafted he has to eat his own words. That he does not like doing no matter what the effects and that is bad for Gibraltar.

HON J BOSSANO:

Mr Speaker, I said when I spoke on the main motion that I was supporting the motion and that I was not moving any amendment and I gave the reasons for supporting the stand that we should control our frontier as we wished to control it and that it should be up to us whether we wished to have it open for 24 hours or not and that because of its symbolic rather than for any practical difference that it would make, either economically or socially, that I was supporting it. But I am not sure if that is the reason because, in fact, that is for me sufficient reason to say that I cannot accept the amendment. I think the argument that I put was not countered by the Chief Minister. The arguments and he used might make a difference if I was a supporter of the Lisbon Agreement but I am not so therefore it does not bother me if that is rocking the boat. I am not concerned about whether the boat is going to be sunk, the more rocking of the boat there is the more merit I see in the situation. The arguments that he has used have not been enough to persuade me but I think there are two elements that appear to have just been introduced by the Honourable and Learned Leader of the Opposition which I do not quite know where it comes in. If saying that we want our frontier to be closed at the same time as it has been up to now is in fact an assertion of our right to regulate our own affairs and that we are not falling over backwards to accommodate anybody else, then I think that is the right approach. If it is in fact a response because we are not sure whether the pedestrian opening is intended to be friendly or not, then I do not think that enters into the question, quite frankly. I do not see how anybody can gauge whether the intention is a friendly one or not. We are being told by a lot of people, both in the local area and nationally, that it is a gesture of goodwill. Whether it is a gesture of goodwill or not is really impossible to tell unless one can get into the mind of the person that took the decision but they are alleging that it is a gesture of goodwill and as far as I am concerned my position is that the pedestrian opening, of itself, would not be more detrimental than a complete lifting of restrictions and that possibly it is less detrimental, so I cannot see it a malevolent move. Otherwise I would have to agree with the analysis that in fact they are deliberately acting in a way which is designed to hurt Gibraltar's economy by limiting it to pedestrians. I do not think that that is the effect and therefore if that is what they are intending to do then they are going the wrong way

about it. I think that the idea that we have got an open frontier which is no different from any other international frontier in itself will not produce a boom. I don't see why anybody expects, for example, that the tariff barrier between Ceuta and Spain should be identical to the tariff barrier between Gibraltar and Spain. After all, the Spanish Government can if they wish put a special rate of duty on imports from Ceuta because Ceuta belongs to them and they can say that imports from Gibraltar of Japanese products will pay the same duty as imports into Spain from Japan directly. That can be said to be an unfriendly gesture particularly if you are in the business of selling videos, very unfriendly, because you are being hurt. But whether we can defend politically or internationally, for example, that if Spain decides to give Ceuta preferential treatment, the treatment accorded to Ceuta should be accorded to Gibraltar by Spain with whom we want nothing, with whom we do not want to discuss sovereignty, I do not see how we can defend that position politically. I certainly do not expect it of them and I certainly do not think we have got any legitimate grounds for condemning it if they don't and I think that we have got to understand that the fact that they are saying that they will implement the Lisbon Agreement does not mean that they will not when the time comes, if they are put under pressure by commercial interest in Ceuta to take steps to protect them, does not mean that they may not then decide that in order to ensure the viability of Ceuta for which they have a responsibility, like the British Government has got a responsibility for the viability of Gibraltar, they will not encourage Spaniards to do their shopping in Ceuta by giving special allowances to Ceuta, and that they will treat Gibraltar just like any other normal frontier, like goods coming in from France or anywhere else. I think that that has got to be taken into account and I think if the stand that we take here is that if they do that they are being unfriendly to us, well, I think that may go down well in Gibraltar but it certainly would not make any sense anywhere else. The other point that the Honourable Member has raised has been the question of overnighting, whether this was a problem and we were willing to cooperate. I do not know whether in fact the Government raised this as a reason for wanting, I certainly did not hear them say so, did he? I did not hear him say that in fact one reason for keeping the frontier open 24 hours a day was to overcome the accusation that has been made against us on more than one occasion. I was just wondering whether it was something that I had missed here because in my original submission in his speaking in support of the motion, I said that I did not see why there was a connection. In fact, the opposite could be said to be true because if you close the frontier at a certain time, then you are forcing them to overnight in Gibraltar, they cannot get back. I think that is a total red herring as far as overnighting is

concerned. I accept that the Government has got the right on this issue like on every other issue to say the Government has given consideration to the matter and the Government policy, in its wisdom either because they do not think it would be worth it or whatever. A number of arguments that have been put by the Honourable and Learned the Chief Minister I think are understandable if you are approaching the question of maintaining friendly relations with the United Kingdom Government on the basis of cooperating with the Lisbon Agreement and if you think that the British Government, of the relations with the British Government, or it is going to be taken very unkindly there, I am not in a position to make a judgement on any of those things. If the Government's judgement is that and that is the reason, they have a majority in this House and they are entitled to defend that policy. It has nothing to do with all that I think or anything else. I do not agree with it and therefore as far as I am concerned, I am voting against the amendment because it may upset the British Government if we ask them to keep the frontier closed at night, it may, but if it does I am not bothered by that so that is not an argument that carries weight with me. And it may upset the Spanish Government and they may decide not to implement the Lisbon Agreement but if it does it does not bother me either so I am prepared to take those risks. I do not know whether the Honourable Member, I am afraid I was held up downstairs by a couple of constituents with problems before I managed to get up here, so I do not know whether the Honourable Member has touched on what was said at lunch time.

MR SPEAKER:

No, we have not.

HON J BOSSANO:

I do not know whether that has a bearing on the situation. If it does materialise, of course, because Spring is a very long way away but if it does materialise presumably the parameters to the motion have been shortened by what has happened this morning in the sense that I think the spirit in which the motion was being put was that here was a pedestrian opening with no concept of the length of time for which it would last. The time scale has been theoretically, anyway, shortened this morning and I saw on Spanish television the actual interview with Señor Fernando Moran where, in fact, he described the pedestrian opening as a gesture of goodwill but said that it was not a gesture of goodwill intended to produce a reciprocal gesture either from the British Government or from the people of Gibraltar. He also said that it had been very well received in Gibraltar. Obviously, he has not been updated on the debate this morning. But, anyway, as far as the official spokesman of the Spanish Government is concerned the text is that it is intended to be seen by us as a friendly gesture,

whether we see it like that or not, and that it is not intended to produce on our part anything in exchange. Therefore I don't think they could be said to be looking for us to open the frontier necessarily at the same time as they do but I think they would probably expect it to happen, I think that we would probably expect that if they have theirs open at night I would think they would probably think we are being bolshy if we closed ours. But I do not think that is a major consideration for us I think we must take the decision of doing what we think is right because that is essentially the stand the Spanish Government has taken and I think it is the correct turn for them and this is why I was not defending the philosophy of the Spanish Government. As far as I was concerned it is not my job to defend their philosophy. What I am saying is that their philosophy is understandable and should come as no surprise to us and that they should say quite publicly and quite categorically and without any ambiguity that in the development of their relations with Gibraltar and in their removal of the restrictions, they will make sure that their interests are not hurt and that to me is a very sensible thing for them to say. I think it is obvious that we must be saying the same thing, that in the removal of the restrictions we must make sure that our interests are not hurt but we are the ones that have got to make sure we cannot expect them to do that for us, Mr Speaker. They have got no responsibility for doing it and, in fact, it would be conflicting with their interests and therefore, coming back to the amendment, I cannot see why we need to say in this House that we are going to protect Gibraltar's interest in the same way as they have been concerned to protect the Spanish economy. Even if they were not concerned, even if tomorrow they change their minds, we still should do it. The fact that they are doing it is comprehensible. If I was in their place I would want to do the same thing but even if they do not do it I would still want to do it here. That is as far as the second part of the amendment is concerned. I said myself Mr Speaker, that I did not want to move any amendment myself to the motion because I was accepting what I took to be the fundamental principle at stake of an assertion of our own, shall we say, independence of spirit on this issue, but if we take that part away what we are left with is the motion that I am not very happy with. I would prefer not to have the motion at all, really, than to have what is left after the amendment because what we are saying, that because there is only a partial opening we consider that the Government of Gibraltar should protect the Gibraltar economy in the same way as they are protecting Ceuta and Malaga. Does that mean that if they stop protecting Ceuta and Malaga we don't expect the Government to do it or does it mean that if the opening is not partial we do not expect the Government to do it? We are putting qualifications on what the Minister for Economic Development said he would do anyway without qualification and however tough the measures were

that were necessary so I am perfectly satisfied with the stand taken by the Minister for Economic Development without a motion and I would not support this motion because it seems to be asking him to do less than what he is prepared to do without the motion. I cannot support the amendment and I think when the amendment is passed, I will probably abstain then on the amended motion because I am not going to vote against it either because what I am saying then that I don't want measures of protection to be taken, but it makes it all very difficult; I think.

HON MAJOR R J PELIZA:

Mr Speaker, I would like to speak on the amendment.

MR SPEAKER:

Then I take it that you expect to speak on the general question again.

HON MAJOR R J PELIZA:

I might. I am reserving my position. I am not going to tell you that I will because again, I might not.

MR SPEAKER:

Then I must tell you that you must speak only to the amendment.

HON MAJOR R J PELIZA:

Oh, yes, and I came very prepared to make myself very clear to you. What I want to speak now on is, firstly, the bi-partisan approach which, obviously, is part of the amendment. But the reason why, as I see, the Chief Minister has introduced the amendment. Secondly is the closing of the frontier at night which is the bone of contention in this particular motion, Mr Speaker, and, finally, the extra tail, a very ugly tail I see it, that has been added to the motion about Ceuta and Melilla. Those are the three points that I intend to develop starting of course with a bi-partisan approach of which we find, however much Sir Joshua may wish to give it a low-key interpretation, because I was listening to television too and there were people around me listening on television as well and the conclusion from what he said was that as far as he could see there could be no harm in leaving the frontier open at night because after all who would want to go at 3 or 4 o'clock in the morning, it would not cause any problems, really, that is the way that it was seen. Sir Joshua has got a lot of experience, he has been 40 years in politics, he knows how the words of politicians are noted very carefully, everything they say. The average man in Gibraltar, I would have thought, from what they heard on television, any

reasonable person in Gibraltar, if we want to use the standard legal phrase, would have interpreted what he said that the view was that he felt that the frontier should stay open at night. There is no denying that.

HON CHIEF MINISTER:

If the Honourable Member will give way I think we might save a lot of time. I do not say that I said it was alright but I accept that I didn't say that it wasn't, I accept that. If you look at the whole text I accept that I said that this is what they said and that is how we had thought of it at the time of the Lisbon Agreement. I did not say I think it is wrong, because I do not think it is wrong.

HON MAJOR R J PELIZA:

Mr Speaker, the more the Chief Minister speaks the more he accuses himself of having said what he says that he said. I would advise him that if he wants to come out with more respect out of this matter...

HON CHIEF MINISTER:

I don't need any advice from the Honourable Member.

HON MAJOR R J PELIZA:

I am not going to give any more way. He can talk at the end. He should not get excited that way, Mr Speaker, after all he has had 40 years in politics, I have only had 12 and I seem to be taking it better than he is. Mr Speaker, I think it is conclusive there is no question about it that the Chief Minister spoke out of turn, he could have given a guarded answer if he had realised that he has a convention with my colleague the Leader of the Opposition about a bi-partisan approach and I am sure that we all know this is a big event, there is no question about it, the opening of the frontier is a big event, a very serious event for Gibraltar and perhaps when I speak later I will explain why, not now; Mr Speaker, and therefore it is a very serious event and of all the things that have happened to consult the Leader of the Opposition this I would have thought was a most important one, and he did not. And then he comes here and accuses the Leader of the Opposition of having breached the bi-partisan approach. That, Mr Speaker, is not acceptable and no matter how much he may wish to argue he cannot convince anybody that he is right. The point is, why did he do that? This is what is so unexplainable. I think that my Honourable Friend has explained clearly that he could not have had a directive from the British Government, he could not. He says he would not have accepted a directive, well, that makes this point even stronger as in that case there was no reason whatsoever for

not consulting the Leader of the Opposition. I think we all agree that in foreign affairs we have got to, whether we like it or not, take into consideration what Her Majesty's Government have got to say, of course we have to. They are responsible for foreign affairs. They have the authority, they have the strength. But he cannot use that excuse for having acted in this way on this occasion, that is what I am trying to say. If that had been so I have no doubt that the Leader of the Opposition himself would have been called by the Governor and told it is very, very important that on the question of the opening of our side of the frontier that we immediately lift the night closure. But this has not happened, it is obvious, because the Leader of the Opposition I know is very concerned about the way Her Majesty's Government think on the question of foreign affairs, of course he is, and at the end of the day whether we like it or not we depend on Her Majesty's Government. We are impotent to do anything ourselves on foreign affairs, of course we are. Foreign affairs is not a question of convincing people with arguments. Behind the scenes of foreign affairs there is a lot of horse trading and we have no horses to trade. The only people who can speak on our behalf is Her Majesty's Government. They are the people who can give something in return, we have nothing to give, but Her Majesty's Government might, it has nothing to do with Gibraltar and I will come to that at a later stage. I think that it is absolutely clear that it was the Chief Minister who was at fault and I am very sorry for him because I am sure that my Honourable Friend has no resentment, he rises above that level and always will, he puts Gibraltar first and I am sure that when the time comes again to speak together about foreign affairs, whatever may happen to this motion, my Honourable Friend is big enough to go and see the Chief Minister and see if they can mend their fences. It is a pity of course, that the performance of the Chief Minister has not risen to that height in this House tonight.

HON CHIEF MINISTER:

If the Honourable Member will give way. The first thing I said was I hope that though I did accuse the Leader of the Opposition of breaching the bi-partisan policy, I said that I hoped that this would not happen in the future, I said that, whoever may be at fault, I said that, so I do not need any lectures from Major Peliza:

HON MAJOR R J PELIZA:

If this is not to happen again, Mr Speaker, it is the Chief Minister who has got to restrain himself and close his big mouth, to put it bluntly. It seems as if after all it is as if the Leader of the Opposition who is to blame but the

Leader of the Opposition is not to blame. And then we find that his good and loyal Minister for Economic Development comes along and tries to defend his position very loyally, and I praise him for trying to do that. And what does he do, he almost blames the press for the Chief Minister having made that statement and almost tells the press that they should not be in a hurry to get news. I personally would fear the day that the press does not dare to run after politicians to find the news. I hope they carry on doing that all the time. That is the essence of freedom of speech and therefore they should be absolutely on the go. And if anything happens they should be questioning the people who are responsible for politics because the people want to know immediately and the only way the people can know is by what the press tells them. Therefore they are absolutely right, perfectly correct in going and ringing telephones and waiting at the doors to find out as soon as possible. The day they fail to do that, Mr Speaker, we fail to have a good press.

HON A J CANEPA:

If it is so important to get a question answered at 4 or 5 o'clock in the afternoon, why isn't there a news flash at 4 or 5 in the afternoon, why do they wait till 9 o'clock that evening?

HON MAJOR R J PELIZA:

Mr Speaker, I would never like to interfere with the press as to what they do and I hope that the Minister does not want to interfere with the press as to what they want to do. The press is free to put a flash whenever they want to or not put it, that is their business. Their business is to find news and then to propagate it in their own way and that, Mr Speaker, does not seem to be the view of the Minister for Economic Development and I do hope that if he is ever Chief Minister that he does not carry his views to its logical conclusion because then he will be interfering with the press.

HON A J CANEPA:

That is an intolerable remark from the Honourable Member opposite. He should withdraw that remark.

HON MAJOR R J PELIZA:

I am not going to give way.

MR SPEAKER:

The Honourable Member need not give way if he does not want to but he must speak to the question before the House.

HON MAJOR R J PELIZA:

But I am, Mr Speaker, this is very much related.

MR SPEAKER:

The relationship between a possible future Chief Minister and the press is not relevant to the question before the House.

HON A J CANEPA:

If the Honourable Member will give way.

HON MAJOR R J PELIZA:

No I am not going to give way any more I am sorry. I always do but I am not going to give way any more because otherwise I will not be able to develop my theme, Mr Speaker, with so many interruptions. I know that what I am saying are very hard facts and perhaps they are unpleasant ones for those who hear them. They may be unpleasant but they are truthful facts, Mr Speaker, and I am just developing arguments from what we have heard here today. No one can accuse me of saying things that we have not heard here today. All I can say is that on that question, Mr Speaker, I am absolutely satisfied that we on this side of the House did not breach the convention. And I think it is possible to come together again, I am sure the Leader of the Opposition will try and pursue his role of trying to forge a common policy on the question of Gibraltar and Spain. Now, Mr Speaker, to the second point, the question of 24 hour opening. At the Lisbon Agreement it was agreed that the frontier would open all night when the agreement was implemented, that is what was agreed. The Spanish Government so far have not honoured their side of the agreement and therefore there is absolutely no reason why we should give way on that particular point. I do not believe that giving way on that matter would in any way have encouraged the Spanish Government to proceed any further and the proof of it is, Mr Speaker, that today Señor Moran has said that they are going to try and go ahead with the Lisbon Agreement. Surely, not because we are going to keep the frontier open at night, because the Chief Minister has said that he is going to do that, surely that has not reached his ears so quickly, so it has nothing to do with that. I know what it has got to do with, and it was said on television, that Britain is going to help Spain to go into the Common Market and has been told quite clearly that if they do not implement the Lisbon Agreement they will not get Her Majesty's Government's support. That is the truth and that is the horse trading. I remember a long time ago at the beginning of the restrictions when Mr Amery came here to Gibraltar, I remember him saying: "One day the Spaniards will want something from us. This is when we are going to force them to

open that frontier". Now they want something. They want to be part of the EEC. And they know perfectly well, in fact they said it quite clearly, that they have to open the frontier not for pedestrians only, fully open. So they know now that there could be no question of Spain going into the Common Market with a closed border. So therefore that is what has moved Señor Moran and that is all the kindness that we see coming because now they know that if they want to belong to the Community they must behave like a member of the Community. So, Mr Speaker, I think that for us to hold our position as we should, we should demonstrate by every possible means that the frontier according to the Spaniards is being opened on humanitarian grounds, in fact, by saying that, they are accepting and admitting they have been acting inhumanely all the time. For the first time they have accepted that because otherwise they would not have used that word, so all those years they have been acting inhumanely and now they say they are going to open on humanitarian grounds. What happens if they open on humanitarian grounds? We do not know, the Chief Minister does not know, we have heard it here today and yet although he does not know what that means let us give away everything we have. What have we got? The only thing we have is opening at night because I do not think there is any other concession we can give, we are not going to give a little bit of North Front, are we, or part of Main Street, a chunk of the Rock up there? We have nothing to give so the only thing we could say is: "Look, you are accusing us of perhaps not acting as a proper frontier open all night, we are prepared to do it" and that trump card which is the only card that we have, we have just given it away for nothing because they are going to open on humanitarian grounds. I cannot understand that, Mr Speaker. Whilst if we had kept it as it was that was a symbol of our determination to hold the position as it is today and that, in my view, is important. It is important for more than one thing. It is, I think part of the public relations of Spain internationally-wise, particularly for the British public, to show that they have now given way. The people in Britain now say: "The frontier is opening", that is all they know. The people in England who are probably the best informed other than the Gibraltarians themselves when they hear that they are going to open on humanitarian grounds, all they think is that they are opening the frontier, aren't they, and they think that everything is normal. We have got to show that everything is not normal and therefore by keeping those strict hours that we had before, if someone were to ask you that they are open all night and you are not, then you can explain why, then you can say why it is that we have reserved our position and in that way the public will become better informed and journalists will come here and say: "But why is it that they open all night and you don't?" and you explain why, because they have only opened on humanitarian

grounds, because that is only a police post or whatever it is that is going to happen because nobody seems to know. I have a feeling that not even Señor Moran knows what is going to happen; that is my own impression. Therefore that is part of their international public relations; now Spain is a humane country, that is what they will say, with regard to Gibraltar. As far as Spain is concerned it is also important we should keep it the way it is so that the Spaniards understand the feeling of the Gibraltarians; so that they are reminded of what they have been doing for the past years, so that they see that if they really want to make friends with the Gibraltarians they have got to think on more than just humanitarian grounds, they have got to think of friendship and if they had opened it in a sense of friendship, yes, but no, of course not, because perhaps the Spanish Government could not take that step now and therefore they had to think of something and say: "Look, Spaniards, we cannot carry on being so inhumane with the Gibraltarians" and as no one is going to say: "Well, of course, we cannot be inhumane, we will allow you to open the frontier, Señor Felipe Gonzalez". The military cannot object, the extreme right cannot object and that was, in my view, the diplomatic way of selling it to the extremists in Spain and perhaps to the general public in Spain. But that does not mean to say that the whole thing is over, in fact, we had Señor Oreja who was the fellow who signed the Lisbon Agreement, as reported in The Times yesterday, objecting to this already. So it is not a foregone conclusion that even if with all the goodwill in the world Señor Felipe Gonzalez and Señor Fernando Moran could go ahead and give us everything that they would perhaps want to give us in terms of friendship, they had their hands, I suppose to some extent tied. We all know that Spain is a military inhibited democracy and therefore I can understand that they are in great difficulty but not because they find themselves in that sort of situation we ourselves are going to surrender, as it were, the only card that we have in our hands and I think it is totally wrong. I think my Friend Mr Bossano made a very good point there. If they say that Spaniards are not allowed to stay overnight in Gibraltar, well, that is the very opposite now, in fact, if they come in and they forget that they have to be out by a certain time they would have to stay in and not go back to Spain and that would prove conclusively that we would not stop them from staying if they wanted to and that perhaps could even do some good to our business because lots of Spaniards who may wish to see night life in Gibraltar if the frontier is open at night they have to go back if they want to, they can go back, but if the frontier is closed they would have to stay here and that may result in a few more hotel beds being filled up at night, perhaps more restaurants doing more business so there is even an economic reason for the time being for closing the frontier at night because it might encourage lots of people who come over from the other

side of the frontier not just to walk in and out but even stay here overnight. I do not know if the Chief Minister has given thought to that but I think that is a good economic reason for doing so. If I were to be Minister for Tourism I would certainly like it to be that way, I don't know how the Minister for Tourism thinks about this, but I am sure that I would like to see that people coming here would have to stay at night or at least encourage them to stay at night. Mr Speaker, however much we may wish to demonstrate to the Spaniards that there is really no ill-feeling against the ordinary man in the street because I do not think that there is in Gibraltar, there is no anti-Spaniard feeling, there is anti-Government feeling, I do not think against the ordinary man, Mr Speaker, and how much we may wish to do that I think one thing we must not do is make Gibraltar a doormat and that, Mr Speaker, if I may say so, is what we do when we act in the way that the Chief Minister is acting with regard to the question of lifting the night closure of our frontier. I think our gates have always opened between certain hours and nothing, in my view, has happened that should force us to change our way of doing it and to do that is immediately to show over eagerness. Mr Speaker, that could be counter-productive because it happens to anyone who is a good salesman, he knows that when the client is very eager to get something the price goes up. I remember when the Chief Minister said: "Give Spain some hope". I think because he used to say that, precisely because he said "give Spain some hope" that the Spaniards have carried on being for so long the way they are because they thought; "When the Chief Minister has said that it means that he is just about to give in and let us hold it off". Therefore, Mr Speaker, any gesture which shows over eagerness on our part is not in our interests and therefore, Mr Speaker, in that aspect as well I would say no, the position today must be firm as far as we are concerned, friendly but firm. And finally, Mr Speaker, on the question of the last bit of the amendment. I think the Chief Minister has now realised that what he said on television was not popular and the Chief Minister is very good at that 'A' level standard at that, Mr Speaker, getting to feel how the town feels. He knows when what he says is popular and he knows when what he says is not popular and he has realised now that the question of opening the frontier right through the day and night is not popular in Gibraltar, he has heard that, a little bit too late, he was too quick off the mark, so now he has got to demonstrate strength, so here we are, we have got to fight it like hell. What do they think about Ceuta and Melilla, if they do that we will do the same and so he has added incongruous additions to the amendment, Mr Speaker, to show some strength where he has shown weakness, that is the only way he could balance it because it is completely out of place. They are not talking about far reaching effects to the economy, we are looking at it now without even knowing what is going to happen and this is the spirit in which the Leader of the Opposition has

phrased the motion, Mr Speaker. If you read through it, it is clear, it is to meet the immediate effects of this event, it is directed at this event, it has nothing to do with the Lisbon Agreement about which I think I will have to say something later, Mr Speaker, when I speak later if I do. But this, Mr Speaker, is completely and utterly out of place and I think my Honourable Friend Mr Bossano made a very good analysis of the situation in that respect. If they want, as he said quite rightly, to increase or decrease the duty in and out of Ceuta who are we if that is the way that they meant it. We did not know what they mean by protecting Melilla and Ceuta, we do not know, we do not know half of the things they said.

HON CHIEF MINISTER:

You were in London, we heard it.

HON MAJOR R J PELIZA:

I heard it here, too. That is a good red herring now. When the Chief Minister is scraping the bottom of the barrel he produces London. I know now that he has nothing more to say, nothing more. Probably London will come out again, Mr Speaker, it tends to be repeated, it has been for the past ten years, so it will probably go on for another two, I don't know, unless we go into Government and then he won't be able to say I am in London because I will be in Gibraltar then, Mr Speaker. At the moment, Mr Speaker, to me, the amendment is absolutely necessary. It is only face saving for the Chief Minister and all he is trying to base it on because he started that way because he has no other argument, is that my Honourable Friend really was in breach of the bi-partisan approach, that is the way he started and then he developed everything else, in other words, if he had come to me perhaps we could have had a motion which would have been agreed to by everybody, if he had come to me. Not if the Chief Minister had gone to him which I think is what his duty is. To try, Mr Speaker, and reverse the situation and to say that my Honourable Friend is to blame, there is only one word in Gibraltar for that Mr Speaker, "cara dura", that is what it is.

MR SPEAKER:

May I ask whether you are going to speak on the amendment?

HON M K FEATHERSTONE:

Just on the amendment, Sir. But before I start on the amendment, Sir, I read a book the other day and there was a phrase in it which I think I saved specifically for the Honourable Major Peliza after one of his outbursts as we have heard today "a sophisticated rhetorician, inebriated with the exuberance of his own verbosity and gifted with an egotistical

imagination that can at all times command an interminable and inconsistent series of arguments". That is what we have had from the Honourable Major Peliza but it is nothing new, we get it every time. I will follow, and I am going to be relatively short, I will follow the same free line of argument of the Honourable Major Peliza. The bi-partisan approach. Of course this is what the Government likes to see but there are times when the Chief Minister who, whether the Opposition likes it or not, is the leader of the Government and the leader of Gibraltar, is asked and it is usually by the media, sometimes a visiting Spanish journalist, sometimes our own TV, for a statement on something which may have only occurred as occurred the other day a few minutes or a few hours beforehand. If he could say: "I am sorry, I cannot answer you, I have got to go and consult with Mr Isola". Is he to be tied to Mr Isola's coat tails all the time? Well, of course not, the Chief Minister must have full freedom of action to say in defence of Gibraltar whatever he thinks fit at that moment and to give the answers that he thinks are the correct ones and this is exactly what he did on TV the other night. When there is time to consult then of course this should be done and before this motion was produced there was time to consult and this is what the Honourable Mr Isola, who is tied to this bi-partisan idea according to him, did not do so, it is he who has failed dismally, it is he who has breached the agreement. He had ample time, he did not do it, so it is on his shoulders that there was a breach of the policy of consultation. Now, Sir, as for the 24 hour opening. We, of course, would like to see the frontier open on a normal basis as envisaged by Lisbon as soon as possible but if the Spaniards today are only willing to go X% of that way, well, are we going to gain anything by saying: "Ah, you are willing to go X% but we are going to go one worse, we are going to go X-Y%". This I think would be a futile policy. If they say: "We will open 24 hours a day" then, surely, the least that we can reasonably do is say: "You have gone that far, we will meet you, we will do the same". This is the first step towards the normality that we hope will come in due time, perhaps the sooner the better, towards what will be the ultimate solution. This is just the same for the addition that has been suggested to the motion. As far as Spain is ready to go we can meet them. If they are willing to be reasonable to the personal movement of goods across the frontier well and good, we should do exactly the same, but if they want to be bloody minded who is to deny us the right to be equally difficult, to say exactly the same as they say; no movement of goods on a personal basis, we are not talking on commercial terms, we are talking on the purely personal basis of the person who comes over here or the person to wants to go to Spain with perhaps a suitcase with his clothing to visit his relations and perhaps take some sweets for the children, a box of chocolates for the mother or the family, if that is not to be permitted we can be equally sticky.

At least we can consider such measures and that is what exactly we are asking to do, let at least the sauce for the Gibraltar goose be the same sauce for the Spanish gander. I support the amendment to the motion fully, Sir.

HON CHIEF MINISTER:

I am grateful to my colleague who I asked shorten his intervention because I think we have had enough of Spain for the whole day, but I am grateful to him for having perhaps done in a better way than I could have done, to explain the position and that position precisely is the one that Major Peliza was telling us we should do, that the press have to be there and you have got to answer. I said at the beginning that the circumstances under which I did the interview was that that evening they asked whether they could come to my house, I had been at a meeting, to record an interview and I said, yes, and I must say the more I read the script of this interview the more proud I am of what I said in the circumstances in which I said it and I do not regret one word of it at all because I reacted as I have every right to react, as my colleague has rightly said, as I have every right to react and if every time I am asked by the media to give an interview Major Peliza expects me to go looking for Mr Isola, he is completely wrong. The matters on which we discuss this are matters of great import but as Mr Featherstone has rightly said there are times when there is no time for consultation and there are times when there is and that was my opening remark. One thing is saying something to a paper and the other one is bringing a motion for the whole House to decide. There you highlight if there has been any difference or there could have been any difference of opinion, you put the stamp on the difference rather than to alleviate any difference that could have happened, if it had happened, by a quick interview or something like that. So, really, I must lay the whole blame for this apparent breach of the bi-partisan approach on the Leader of the Opposition and nobody else. He had time to tell me: "Look, you said this last night, would you think that perhaps we could have a motion that would make the position clear?" He did not do that, he came along and even asked for the suspension of Standing Orders without even having the courtesy of telling me that he was putting the motion, I only read when it was given to me by the Clerk of the House, and therefore I made no apologies for not calling him before I made an interview. I would never call him before I make an interview nor does he call me before he makes an interview but there is time to discuss and consult otherwise. The circumstances on which I gave the interview; there is a bit about the 24 hours which I did not read this morning, I didn't notice it by omission, but I am going to read it now because it further confirms what happened. The first question was not recorded, I don't remember what it was but the people who recorded the interview I remember when

I saw it on television the first question was not heard but it was something about: "Did you have any prior knowledge of this announcement?" and the recording goes: "No, not at all. I have not heard the latest news otherwise and as everybody has heard on the Press Conference given by the Spanish Prime Minister and that is all I know and in fact I haven't even heard about the 15th. I didn't hear that part of the interview about the 15th being the date because I was at a meeting and I didn't hear that part of it but, anyhow, he made it clear that it was for pedestrians and I think that he also made it clear that it was 24 hours a day which is what we had provided for in the original talks leading on to the Lisbon Agreement: "Do you think that it is a good idea for it to be a gradual opening?" Well, if it is gradual without reference to the Lisbon Agreement then, so be it, I mean, after all, they closed it and we have complained all the time that they had closed it and now they open it in this way. I think we cannot complain about that. In fact we have been complaining of the opposite. The question of the restrictions, generally, will have to be lifted, if and when the Lisbon Agreement is put into effect. In the meantime, I hope that there will be enough time between now and the 15th for talks to be held at local level also and not only at national level.

but at local level, so that the logistics can be arranged because if they just said the 15th they knew we were ready, I suppose, but anyhow, that is discussed now". "Is Gibraltar ready?" I think so, certainly for pedestrian traffic, yes, I think we have the necessary provision in respect of customs and immigration control and all that. Yes I think we are ready". "Do you think that Señor Gonzalez is treading very carefully by just conceding the opening and not even letting any goods go past?" "Well, we don't know, all it said was that it would not be for commercial goods. We want to see what the modalities are about luggage and so on. We cannot expect people to move about and not to be able to carry something with them. But it is all very vague at the moment. One thing he said which I, with the greatest respect to the Prime Minister, do not agree. He said that to allow tourists to move freely would be to the detriment of Spanish airlines and to the benefit of British airlines because they were heavily subsidised in Gibraltar. All I say is I wish they were". "What about the 24 hour opening, that is something new for Gibraltar. Do you think that Gibraltarians fear this a little?" "Well, we have provided for that to overcome their age long complaint about the fact that we did not allow the Spaniards to overnight in Gibraltar. I think that it will wear off along. I mean, there will be 24 hours a day but really who is to cross the frontier at three or four in the morning unless it is something very urgent. Presumably, that will mean that people can move about freely" that is what I was saying that the Spaniards think - "and much later but there are quite a number of unknowns and we will see how this works. But as I say, we have said all the

time that the closure of the frontier was inhuman and unjustified. Now they are opening it, on their own, without reference to the Lisbon Agreement and therefore I think that this is a step in the right direction". And then he said: "Do you think it is genuine?" I said: "Yes, it is genuine", and then: "Will you be contacting the Foreign Office or Mr Pym himself?" I said: "Well, I have already had contacts and in fact I saw him personally last Tuesday at another function" and then I said: "There will, of course, be a lot of communication between Gibraltar and London before the 15th". I have made my own judgement about the question of the frontier which I do not hesitate to state here, that was my immediate reaction which was one of spontaneous reaction to the situation but I would not have opposed and I do not oppose the opening of the frontier 24 hours for pedestrians at all. I do not see why we should not do that, I think Mr Featherstone has given a very good reason and my judgement is that apart from that, that it would not go well, this is my judgement, I get directions from nobody, if having made this gesture the British Government went back and said: "We have to amend what you propose to do in good faith, if we have to take them in good faith". But when the motion was moved this morning it looked as if we were beginning at the end of a very long tunnel all sorts of tricks that were going to be played and that therefore we didn't know what was going to happen because there was nothing about the Lisbon Agreement. Over lunch, as it happened, a statement has been made about the meeting between the Secretary of State and the Spanish Foreign Minister at the Nato H.Q. in Brussels this morning and it says: "The talks were held in a warm and friendly atmosphere. Both Ministers expressed the view that they wanted the best possible relations. They talked about the present North Atlantic Council meeting, NATO matters and the Spanish position, about Spain's application to join the European Community and the support given throughout by Britain together with the British hope that Spanish accession would be achieved as soon as possible. They also discussed bilateral relations, including Gibraltar, they repeated their adherence to the Lisbon Agreement and discussed implementation. They decided to meet again with a view to implementation of the agreement in the Spring, they arranged for officials to meet to consider details". Well, I think that makes a mockery of the motion that was started at half past ten this morning completely, and the reasons for it.

HON P J ISOLA:

If the Honourable and Learned Chief Minister would give way.

HON CHIEF MINISTER:

No, I am sorry I will not give way. Members opposite have been obstructive and I will be the same, I am not going to

give way. You have the right to answer at the end of the debate. So, really, what were we talking about this morning? About a conspiracy to try and get us opening the frontier a little more for the sake of opening and let it be said quite clearly though I agree that there are different views, as I said this morning about whether the frontier should remain open or not and the same thing will happen when the Lisbon Agreement is implemented, if it is implemented, the same worries will remain so the worries are not cleared simply because they are going to be pedestrians, in fact, it is not going to be because of that, in fact, there will be more worry when the Lisbon Agreement is implemented because people will go with their cars and their motorcycles and so on and the dangers of being in Spain longer will be much more accentuated than for pedestrians so this is all hypocrisy and eye wash in order to praise the band waggon of a few people who are collecting signatures to say that the frontier should close at 12 o'clock at night, as we have had with the telephone and with the electricity, it is just playing politics. I am making a statement of what I think is the right lead for Gibraltar, that in my judgement and I have no direction and I do not take directions, but I make a judgement of what is important and in fact Major Peliza, amongst the many foolish things he said, he said one or two sensible things and one of them was that Foreign Affairs was in the hands of the British Government and what they thought about it was important and in my judgement, entirely on my judgement, and I know nothing more about it, I come to the conclusion that to try and limit what the Spaniards have offered by saying: "No, we will continue closing the frontier as we are doing now", that would, in my view, having regard to what I know of the Foreign Office and their anxiety to bring about an end to the restrictions would not be well received. That aspect of the matter, apart from the local one, that is my judgement, I get no instructions from anybody but I must act according to my judgement in all the matters and that is what I have done and proud that I have stood as I have always stood for the best judgement that Gibraltar can have on the question of our relations with Spain.

Mr Speaker then put the question in the terms of the Honourable the Chief Minister's amendment and on a vote being taken the following Honourable Members voted in favour:

The Hon I Abecasis
 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 following Honourable Members voted against:

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

The following Honourable Members abstained:

The Hon D Hull
 The Hon E G Montado

The following Honourable Member was absent from the Chamber:

The Hon A T Loddo

The amendment was accordingly carried.

HON MAJOR R J PELIZA:

Mr Speaker, the last words of the Chief Minister have really made me stand up because there is no hypocrisy at all, Mr Speaker, on the part of this side of the House on introducing this motion, absolutely no hypocrisy whatsoever. It is based on serious concern at the situation and it is no way anti-Spanish and because of this I feel that I should stand up and explain why it is possible to object to certain things from the frontier opening on humanitarian grounds and also having to go with the Lisbon Agreement about which we hear already from the news today that it appears that the Spanish Government is going to have another attempt at honouring. Let us hope they are successful on this occasion. Mr Speaker, the Lisbon Agreement I know was a very difficult thing to agree to. I can understand the Chief Minister and the Leader of the Opposition tackling the matter with trepidation but as I said before, and this is why I stood up before, the Chief Minister mentioned that I had said that we had of course on the question of foreign affairs whether we like it or not to pay considerable attention to the views of Her Majesty's Government and be, if possible, without injuring ourselves, as helpful as possible as well. I think that if Her Majesty's Government who are endeavouring to try and bring better relations between Britain and Spain and at the same time try and if possible smooth conditions between Gibraltar and Spain, that we cannot one day say: "Look at the way they are behaving, the frontier is closed, we must get rid of those restrictions", and then when Her Majesty's Government tries to do that, to block it completely we cannot. Whether we like it or not that position just does not hold. Internationally it appears at the end that we are to blame, in Britain particularly it shows that we are unreasonable and in the House of Commons we have even heard already the Foreign Affairs Committee almost

agreeing unanimously that the Gibraltarians should not hold the veto. How can we hold the situation without ourselves somehow using diplomacy and this is, I am afraid, whether we like it or not, what we have to do. We live in a very difficult and cruel world, whether we like it or not. We are there and we cannot say we do not live in this world because we do. We also know that it is unnatural for 20,000 people to live indefinitely in the locked up position that we are. That does not mean to say that we want to give in and you heard me before, you heard me before when I said we must show strength but at the same time if we have a Government with some power which can really get Spain to move then, obviously, Mr Speaker, whether we like it or not we have to pay certain attention to what they say and we have to go with them as much as it is possible. I personally do not like the Lisbon Agreement. I don't like it but because I don't like it I cannot say we do not have to live with it and try and get the best possible situation out of it. I do not agree that the situation is similar when you hear that the frontier is opening for pedestrians as when the frontier is opening completely. In my view they are two very different things, in fact, I think that the move on the part of Felipe Gonzalez is more than just a humanitarian move for Gibraltar. I can see far more than that in it. You will have noticed that Felipe Gonzalez has frozen his negotiations on NATO and you will have also heard that he said that he would hold a referendum on NATO. He is also trying to jockey for position, he is jockeying for position, that is what he is doing, and so appear to the NATO nations that he is friendly with Gibraltar. All I am saying, therefore, Mr Speaker, is that there is much more than meets the eye in the present approach and therefore I do not think that the Lisbon Agreement and this are exactly the same thing, they will be asking for a bigger price to open on the Lisbon Agreement. I do accept that the problems that are going to arise from the Lisbon Agreement are great and serious but I ought to say that I cannot see how we can prevent it because if Spain decides to open the frontier as a frontier I don't think it would be possible for Gibraltar to say that we are going to keep ours closed so under the circumstances Mr Speaker, we have to try and make the best of it and the best of it is to try and do what I believe, and on this I agree with the Minister for Economic Development, to do everything possible to bring about the protection that is necessary to safeguard the position of the Gibraltarians here, particularly the traders, and one thing that I see above everything else is most important and I do hope and I believe there is still time to keep that Dockyard open. That is the greatest defence that we have with regard to the Lisbon Agreement, it has been proved before. If we have that sort of income from Gibraltar no matter what may happen

MR SPEAKER:

Yes, but let us not start to talk about the Dockyard.

HON MAJOR R J PELIZA:

I am not going to develop on the Dockyard, Mr Speaker, it is just that it was mentioned earlier that we would stand to lose on the economic side if that frontier opened and therefore if the frontier opened we would be drained white whether it was for pedestrians or even more if it was on the basis of the Lisbon Agreement, that is what my Honourable Friend, Mr Bossano, said.

MR SPEAKER:

I am not calling your attention on that.

HON MAJOR R J PELIZA:

Yes, he did, you may not have taken note, Mr Speaker, but he did.

MR SPEAKER:

I do take note of everything that is said in this House. What I am telling you is that that is not what I called your attention about. I called your attention to the fact that you were going on to the effects of the closing of the Dockyard and in this debate that is not relevant.

HON MAJOR R J PELIZA:

I am not going to develop whether the Dockyard should be opened or closed but just to say that that was a source of income which would keep us going regardless of what may happen at the frontier, it is our safeguard and, therefore, if we have that source of income going, as it happened before, we always have the economic strength behind us regardless of what may happen. This is why I attach so much importance to that. If we can hold on to that, Mr Speaker, the situation can be faced regardless. Therefore there is no hypocrisy, Mr Speaker, no hypocrisy in the position that we have taken, absolutely none. You may accept the Lisbon Agreement as inevitable and at the same time you may wish to protect yourself now on the humanitarian position, not because the Lisbon Agreement may come oneday are you already going to give in already, no, Mr Speaker, this is the point I was trying to say. It was mostly directed at my Honourable Friend Mr Bossano who I think has quite a good idea of the way I feel about the Lisbon Agreement. I am not enamoured of it but whether we like it or not we have to live with it.

and we shall have to make the best of it if it is implemented. I think that Gibraltar has got the unity, the determination I would say even the know-how to overcome the problems that we may have to face that day but to play it safe I would tell the people of Gibraltar now let us save the Dockyard first, that is vital to us, Mr Speaker, because if we have that as a background I think the rest will look after itself.

MR SPEAKER:

If there are no other contributors to the debate I will call on the Honourable and Learned the Leader of the Opposition to reply.

HCN P J ISOLA:

Mr Speaker, I did say that I was going to reply or say something on what the Minister for Economic Development had mentioned at this particular point of time. I would like, however, first of all, to remark on the Honourable Mr Featherstone's statement. Let me say I agree with him entirely that if the Chief Minister is interviewed of course he must give his opinion the same way as if I am interviewed I give my opinion. But any Chief Minister should know when he is giving an opinion of what are sensitive areas and what are not sensitive areas. It was not necessary to give a decision on the closure of the frontier on that particular night to GBC. What could have been said is: "Yes, this is a matter that will have to be considered. This is a matter that has to be carefully considered because I have just heard about the opening from the Spanish Prime Minister himself and this is a matter that has to be discussed, it is of some import". I am not trying to stop the Chief Minister saying what he wants to say, he says hundreds of things, Mr Speaker, over periods of time, then he contradicts himself and then he says he did not say it or then he blames the newspapers for having irresponsibly reported it or whatever, that is his privilege, it is his privilege to say what he likes on television, on radio, to the newspapers, to talk about independence, free association, integration, anything he likes but when there is a bi-partisan approach and when he knows as he knows and I know and I know what are sensitive areas, then I believe he is in breach of that bi-partisan approach if he makes a statement that leads people to believe that a decision has already been taken and it is because I watched it, if I had not watched it I would have accepted everything he has said today. I watched him, I know what he said, I know the impression he put over that the frontier stays open 24 hours a day and that is why I brought the motion the next day because I thought it was an important matter that had to be discussed. Not just that, but what worried me was that a statement of that nature had been made not knowing what the

effects on the economy would be of a partial opening of the frontier and that was throwing in a card that might have been of some value as my Honourable and Gallant Friend Major Peliza said. So do not accuse me of breach of a bi-partisan approach. I am very careful, anybody who heard me give my reactions did not hear the word 'welcome' from me, they heard words "a step in the right direction provided this leads to a removal of all the restrictions". The statement the Honourable and Learned Chief Minister has just read about what had happened in Brussels is a completely predictable statement. What does it say? It says what the Spanish Socialists said during the Elections, it says what Felipe Gonzalez said during the elections, it says what the UCD Government said whenever they postponed the Lisbon Agreement; "Yes, we are still committed to it", and that it all it has said, and officials will meet in the Spring to discuss implementation. I have heard that story before, Mr Speaker. Officials have been meeting to implement the Lisbon Agreement since April, 1980. I do not know what they talk about anymore. They built the frontier, the Aduana has been built, all the facilities are there. Do not forget that the frontier was originally to open on April 20th and the invasion of the Falklands was on April 2nd. All the details had been worked out by then. Gibraltar, we were told, was ready to open. What has happened today, in my view, is adherence to the principle of Lisbon by the new Spanish Government, British support for EEC, which is what my Honourable and Gallant Friend has been mentioning. The British do have a stick, this is true now, their support is very important to Spain in any discussions in the EEC and in order to give some explanation, I suppose, of why it is not implemented tomorrow because both sides are ready for implementation, they say officials will meet in the Spring to discuss the implementation. That is all that has happened, it does not undermine the motion, on the contrary it makes it still more pertinent because now we know that the regime of pedestrian opening is going to be with us now at least until the Spring when officials are going to meet. It is very disappointing, Mr Speaker, that the Government are letting the people of Gibraltar down in order to support what the Chief Minister said on television immediately after the announcement. We consider that the opening of the frontier, overnighing as it is called, is a concession of some major importance that was agreed in relation to a particular agreement, the Lisbon Agreement, in relation to the normalisation of the frontier and that it is totally wrong for the Gibraltar Government because the Ministers have now agreed with their Chief, it is totally wrong for the Gibraltar Government on behalf of the people of Gibraltar to have thrown that in because the Chief Minister was rather pressed for time, made an interview very quickly and committed the people of Gibraltar to it. It is a matter for very, very sad regret, Mr Speaker. The frontier will open overnight because the British Government will say: "Fine, the Chief Minister has

said it is alright, the House of Assembly has now said it is alright as an amended motion so we go on and if there are problems afterwards, well you were the people who suggested it in the first place". Well, we must abide the judgement of history on that point, Mr Speaker. On the address of the Minister for Economic Development I am glad, may I say, to hear that he had a number of ideas all well worth following up and I hope he does follow them up. We do not know what the partial opening means, we do not know what it is going to mean to anybody but we do know, Mr Speaker, we do know that the economic effects on Gibraltar could be very adverse if the pedestrian opening is made in the way that has been announced by the Spanish Government, not in the way that it has been interpreted, this means this and this means that, no, in the way it has been announced, in what has been said specifically. We know enough about the present situation, Mr Speaker, we know enough about the present situation and about Spain and Gibraltar to know that against the context of the announcement Gibraltar is going to suffer economically as a result of the pedestrian opening and that is another reason for bringing the motion because watching the Chief Minister on television that night I got the impression that he had euphoria about the whole thing. Well, that is probably a bit too strong, perhaps I am indulging in the slight exaggeration that my Honourable and Gallant Friend Major Peliza is accused of, but he said: "We welcome this", I was getting worried, I said: "What is this man doing, frontier open all day we welcome it but what are we welcoming, do we know what we are welcoming". I could not resist recalling what he said or he was reported to have said - I must be very careful, Mr Speaker - what he was reported to have said I am not sure whether it was at the Party Conference, I am not sure it was there, but I saw it reported in the Gibraltar Chronicle, I also saw it reported in The Times in London when he said: "The people of Gibraltar are on the point of triumph over the forces that have tried to destroy them", talking about his general demeanour in the debate saying we must not do anything to rock the boat and so forth. Well, that was a pretty strong statement to make, wasn't it, Mr Speaker? That was hardly likely to bring the Spanish Socialist Government saying what a wonderful man Sir Joshua Hassan is. He said: "The people of Gibraltar are on the point of triumph over the forces that have tried to destroy them". That worried me against the context of what he said on television. Is this the triumph, the unilateral partial opening of the frontier with restrictions all staying? If one reads what he said and accepts what the Prime Minister said, is that the triumph? And it was because of that that I said: "That motion has to go in", I was going to raise it on the adjournment but my colleagues said: "No, there must be a specific motion, let us have a debate on this". That is why we put both parts of the motion in. And the second part, Mr Speaker, and you must remember that the motion was a restricted

motion put in in an emergency to deal with a situation that is going to arise on Wednesday next and that is why we said: "Consideration should be given to the possible damaging effects on the Gibraltar economy of the proposed manner of opening". What we were saying is: "Hang on, you know how they are going to open? There you go welcoming the pedestrian opening of the frontier, there you go saying we will keep our frontier open all the night and you know nothing about the details, you do not know the manner of opening, you do not know whether although on humanitarian grounds people are going to be able to visit La Linea and see their families against which none of us are, but you do not know whether the price that is going to be paid for that can be the Gibraltar economy and that is why we felt that the motion should be put. Mr Speaker, the motion has been mutilated, if I may put it that way, by the amendment of the Chief Minister. It has been mutilated because it has taken out a vital part of the motion, it has thrown away a bargaining strength, possibly not a bargaining strength but a point of pride of the people of Gibraltar, it has thrown it away. They say we open 24 hours, we run along, immediately and say we do, too. It has thrown away part of the pride of the people of Gibraltar just like that because it was said in television by the Chief Minister and we must all now live with it. And, of course, the amendment. I can never understand the Chief Minister when he says the amendment that he has proposed and carried: "in the same way as the Spanish Government has been concerned to protect the Spanish economy and that of Malaga and Ceuta, in particular", has of course linked Gibraltar to these places and links it in a way that could in fact result in what he is trying to avoid. He wants to implement the Lisbon Agreement, he wants normality returned but now he has put it in a way that the Spanish Government may say: "Well, we recognise that you must take these measures, we recognise your right to do so the same way as we have a right to do so. Until we are satisfied that Ceuta and Malaga and the Spanish economy are not going to be affected, we are not going to implement Lisbon or normalise". I know he had to put in an amendment, it has to be shown that he has put an amendment. It is what my Honourable and Gallant Friend says, so that people will say: "Did you hear about Sir Joshua, what he said?" The Minister laughs because he knows that I know we know. Do you know what he said, he said: "The same as they are doing for their economy we are going to do it, toma". There is no need for that addition, the motion says it so clearly "of the proposed manner of opening and steps taken to protect Gibraltar". Now we have got our Sir Joshua having told the Spaniards we are going to open the frontier 24 hours a day so that then he comes back and says: "We are going to do the same to protect Gibraltar as you are going to protect Ceuta and Melilla". That is all it seems to me to be, that particular amendment. But, Mr Speaker, as far as we are concerned, we have been very faithful on this side of the

House to the bi-partisan approach to foreign affairs and we know that that helps the Government in power, we know that and we stick to that because we feel it is important. In normal events to show our utter and complete contempt for the amendment that has been put in by the Government, we would follow what the Honourable Mr Bossano has said and abstain on the motion, in normal events, but we cannot do it because we know that if we abstain on the motion that when in cold, print it is going to look that the House divided and the bi-partisan approach by the other side did not seem to be agreed that measures should be taken to protect Gibraltar's interest, they abstained on the motion and no manner of explanation here might do away with that. We are going to have to support the motion as amended much as we have contempt for the manner it has been amended and what has been done to it, we are going to support it because we feel that we must aim at some unity and we must aim at unity at least that as regards the partial opening of the frontier the Government has to give urgent consideration to take steps to protect the interests of the economy and we have to support those steps and that the number of steps that have been described by Mr Canepa are steps that have to be looked at very carefully. I mentioned one of the possible steps that has to be looked at which to me seems to be a very simple and straightforward step. We have to vote for the motion but we wish to say that the fact that we are voting for the motion, as amended, does not derogate one bit from our disapproval of the amendment that has been produced by the Chief Minister and the Government to justify and to protect, as it were, the Chief Minister for the blunder he made on television on Tuesday 7th December, 1982, at 9 pm. Thank you, Mr Speaker.

Mr Speaker then put the question in the terms of the Honourable P J Isola's motion, as amended, which now read as follows:

"This House considers that so long as there is only a partial opening of the frontier urgent consideration should be given to the possible damaging effects on the Gibraltar economy of the proposed manner of opening and steps taken to protect Gibraltar interests following from the absence of Spanish customs facilities in the same way as the Spanish Government has been concerned to protect the Spanish economy and that of Malaga and Ceuta in particular".

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

The Hon I Abecasis
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 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 following Honourable Members abstained:

The Hon D Hull
The Hon E G Montado

The following Honourable Members were absent from the Chamber:

The Hon J Bossano
The Hon A T Loddo

The motion was accordingly passed.

HON CHIEF MINISTER:

Mr Speaker, I now move that this House do now adjourn sine die.

MR SPEAKER:

I will now propose the question which is that this House do now adjourn sine die and I will remind the House that the Honourable and Learned Mr Haynes gave notice that he wished to raise on the Adjournment matters referred to in Question No.312 of 1982, and since I don't know how long the Honourable and Learned Mr Haynes is going to take on the matter and since this could last another 40 minutes we will recess for tea and then come back to raise the matter on the adjournment.

The House recessed at 5.30 p.m.

The House resumed at 5.45 p.m.

HON A J HAYNES:

Mr Speaker, I gave notice I wished to raise matters pertaining to Question 312 on the Adjournment. Perhaps, Mr Speaker, I should recount the events that led to the proposing of this question and for the sake of clarity perhaps I should read the question: "Will Government undertake to arrange, or cause to be arranged, emergency facilities to be implemented in the event of another "stranded" day-tourists episode. There was, Mr Speaker, a "stranded" day-tourists episode about a month ago. My involvement came by pure chance. I was at a meeting

of the Public Accounts Committee and when I left the meeting I went downstairs and a few seconds after I left the Piazza I met a group of people, to wit, two taxi drivers and about 20 tourists. These taxi drivers explained to me that the tourists in their care had been tourists whom they had given a day tour to and who on returning to the hydrofoil had found that the hydrofoil was not going to sail. They were completely lost, they didn't know what to do or whom to turn to. And the taxi drivers - and I commend their public spiritedness - decided to try and help them. Initially, I am informed, the taxi drivers went to the Police Station and made enquiries there and the police said that they would come to the House of Assembly and see if there was a Member around who could do something for them. It was at this stage, Mr Speaker, that I intervened and in the first instance I took them to the office of the Tourist Board in the Piazza and once in there I intended to contact the Minister for Tourism but I was informed that he was away in London or abroad on a propaganda expedition. Then when I asked to speak to the Director of Tourism I was informed that he also was away, he was on a similar expedition with the Minister. Failing the attendance of either of the principal characters who I could call on to settle this matter, I contacted the acting Director of Tourism and I asked him to attend at the Tourist Office at the Piazza and I also asked him to contact the Chief Minister whom I then took to be the only Government Minister with authority to deal with the problem. At this time, Mr Speaker, I was told that there were in all about 60 tourists involved, that they were all day trippers and that a large number of them had come with no money. In fact, on enquiries I discovered that a number of them had been advised not to bring money by the hotel where they were staying in Tangiers, on the basis that it could be stolen or might be lost or whatever and they were completely stranded in Gibraltar. It also became apparent quite shortly after I spoke to these people that one of them suffered from a severe medical ailment which required constant medical attention and that the pills which had to be taken on a 7 or 8 hourly basis, had been left behind at the hotel. This I am glad to say, the acting Director managed to correct quickly but initially, Mr Speaker, nothing was being done. After phoning the Chief Minister, I decided to go down to the agency, Smith Mossi, to establish the position as far as they were concerned. There I found more stranded tourists because in the first instance I was dealing with a group of about 15 or 20 and there at Smith Mossi I was informed that the taxi drivers' information was correct, that the hydrofoil was not leaving. It was not leaving as a result of an order of the Captain of the Port who had decided that it was unsafe for the hydrofoil to travel and of course they could not overrule the Captain of the Port and they had to abide by his decision and in no way do I seek to change the Captain of the Port's authority to

decide such matters. The decision had been taken that the hydrofoil was not going to leave. The agency also informed me that their Director was in contact with the principals in Tangier and was attempting to sort out the problem. They undertook to inform me of any advancement and I returned to the Tourist Office. By this time a number of tourists at the Tourist Office was increasing and there were of course far more there than could be adequately catered for by the Tourist Office proper. When I returned I was told that the Chief Minister could not yet be located and later on I was told that he had been located but that he was not willing to intervene. Then I continued talking to the tourists who had been stranded and I was shown a sample ticket, a ticket that they had been sold in Tangier. The ticket made no mention of any conditions of any sort. It just said "Gibraltar/Tangier". There was no small print which indicated that the hydrofoil on certain occasions does not make a full round trip, nor were there any conditions as to the principal's responsibility in the event of the trip not being completed. Again, on enquiry, it transpired that none of the tourists had been given any warning, verbal or otherwise, as to what would happen if the hydrofoil did not return. Furthermore, Mr Speaker, they had not been told that on that particular day there was even a likelihood of the hydrofoil not returning. Quite the contrary, they had just been sold their tickets, put on the hydrofoil and sent to Gibraltar and their first information that the matter was not going to go as planned was when they returned to Waterport Wharf. There was no waiting room facilities, there was no one there from the Tourist Office, there was only an agent of the hydrofoil agency in Gibraltar who informed them the hydrofoil was not returning. By this time, Mr Speaker, an hour had elapsed and still the Chief Minister had not made direct contact with me, in fact, I may say that at no time during the 3 or 4 hours that I was in the Tourist Office, did I speak to him personally. But shortly afterwards I had communication from the agency to inform me that their principals in Morocco, who after all had been the persons who had sold the tickets, the tickets had not been sold by the agency in Gibraltar they had been entirely sold by the principals in Morocco, and they had extracted the following conditions from the principals in Morocco, that each of the tourists be given the sum of £8 to pay for their supper and breakfast the next morning. They were entitled and enabled to sleep on the hydrofoil for that night and there was a storm blowing and at Waterport Wharf the hydrofoil moved very uncomfortably and is not a ship in any way suitable to accept accommodation. And, lastly, the third communicated term was that an agency would guarantee the return trip on the following day, either by hydrofoil or by paying the difference to allow the tourists to go on the Mons Calpe. There was only one matter yet outstanding and that was the

matter of accommodation because there was another query and this came in from more tourists who started coming towards the Tourist Office, that the hydrofoil was about to leave, that the moment the tourists had left the hydrofoil the Captain who could leave without the tourists, on its own, was going to go straight to Algeciras and leave the ship there. In fact this did not happen but that was the fear the tourists had. And so accommodation was the only outstanding item after a wait of two hours. The Chief Minister who I still hoped to contact did not communicate with me but instead his wife, Lady Hassan, seemed to take the reins of office and I had a long conversation with her as to the terms which were or were not acceptable and she made it clear that the GLP/AACR Government did not propose to underwrite the expenses of accommodation. At this I informed the tourists of the position.

HON A J CANEPA:

Mr Speaker, if the Honourable Member will give way. Does the Honourable Member consider, in all fairness, that it is right and proper that he should bring personal matters such as that one, involving the wife of the Chief Minister himself because he is away on urgent Government business, he has been asked to go and see the Governor, the Chief Minister is unable to be there and none of us are able to answer on a matter such as that. There are certain rules, I think, that we ought to try as good manners would demand, I think that we try to play by.

MR SPEAKER:

That is another matter but I would say this, that on the Adjournment the person who has obtained the right to speak does not need to keep to the subject matter on which he has asked for leave to speak. May I say that what he has said so far refers very little to the question at hand which is whether Government will take measures to see that matters are put right so that there will be machinery whereby people would be looked after if they are stranded in Gibraltar. But as I say on the Adjournment there is no rule as to relevance.

HON A J CANEPA:

I am asking the Honourable Member to maintain certain minimum proprieties. The people concerned are not able to answer. Do we have to bring in the wives of Members into these matters, do we have to sink to that level in politics that we have to involve our wives?

HON P J ISOLA:

The only thing is, Mr Speaker, is that the House is sitting and although I am sure the Governor has called the Chief

Minister I am sure the Governor wouldn't mind waiting 30 minutes to enable him to attend the debate.

HON A J CANEPA:

Mr Speaker, the note from the Governor came at about 4 o'clock this afternoon. I think there is a limit to which the Governor himself can also be kept waiting when there are important matters that have occurred this morning elsewhere and the Chief Minister also has the Sabbath coming up shortly. I think that it is natural that he should want to see the Governor before he is unable to do so.

HON A J HAYNES:

Mr Speaker, I can assure the Honourable Member that the facts I have recounted are absolutely accurate and that Lady Hassan plays no further part in the events. But it did strike me as strange that I was dealing with the wife of the Honourable Member in fact the wife of the Chief Minister rather than with the Chief Minister or any other Minister and that struck me as remarkable which is why I bring it at this stage. The importance of that incident, Mr Speaker, is to underline the cowboy style in which the matter was handled by Government. The reason why I am going through the events of that particular day are to underline and give the reasons why the question was asked which is why the answer, in my submission, are invalidated. As I said, Mr Speaker, I then found myself acting for Government, there I was being the Public Relations man for Gibraltar, I had taken over the Tourist Office, I had 60 tourists on my hands, no one in Government wanted to help me, I was coordinating as best I could with the agents who were coordinating with the principals in Morocco. I was only too desirous to pass over the matter to someone who was in a position of responsibility, no one came to give me a helping hand so I did it on my own. At this stage the girls at the Tourist Office had remained in the office beyond the normal working hours and again a vote of thanks to the girls of the Tourist Office who remained behind without any question, no one even asked them to, they did so of their own free will, they became involved. Similarly the taxi drivers were doing a remarkable job in their own time of fetching stranded tourists who had been lost all over town since no one had told them where to go or whom to apply to for relief and these two taxi drivers, Mr Speaker, spent about three hours searching for the remaining tourists until they were all more or less agglomerated in the Tourist Office. The Tourist Office girls then rang round the hotels to find out which had vacant accommodation and the prices. Then they did a most remarkable job whereby for those tourists who had absolutely no money on them whatsoever they found them accommodation on a two to a room basis even though they didn't

necessarily know each other, which should be covered by their £8. These people then would not be entitled to have any meal either supper, breakfast or lunch, as it transpired the next day. Perhaps at this stage, Mr Speaker, I should make a note of what kind of tourists these were, they were 60 or 61, they were primarily English package tourists who had gone to Morocco. Not, the majority of them, experienced or great travellers. They felt completely bewildered, they were lost, most of them were cold because they had come for the day and it had become a rather unpleasant day, and they were worried. They were worried, Mr Speaker, because they had no money, it seemed that no one could help them no one was telling them what to do or where to go and they were stranded. And for anyone who has been in such a position, Mr Speaker, it is the most unpleasant state of affairs and these people were not being adamant, they were just feeling helpless. Added to this vast majority of the English tourists there were 1 or 2 Frenchmen and 1 or 2 Moroccans who had come for the day. Perhaps I should add that one of the English tourists in fact was a member of the British Tourist Board, she was a lady who was rather different to the others, she said that she was astonished that no one from the Tourist Office had been there to offer instructions, she was going to raise this in England when she got back. She was also surprised that no one seemed to take as interest in their predicament. Initially, she thought that Gibraltar was to blame and I, Mr Speaker, had to make it clear to her that the principal people responsible for this were the company in Morocco who could do as they wished. As this stage, Mr Speaker, I was only seeking one thing, that Government should finalise the package deal that had been negotiated for the tourists, and that was accommodation overnight. The total cost would have been at the highest about £500, Mr Speaker. This money was refused and the cooperation I received at a ministerial level was minimal and I asked Question No.312 of 1982: "Will Government undertake to arrange or cause to be arranged emergency facilities to be implemented in the event of another "stranded" day-tourists episode to ensure that this does not happen again?" And I was disappointed with the answer which, Mr Speaker, perhaps I should read at this junction: "No, Sir. The Government (Tourist Office) will however provide a service as happened recently when a group of visitors were stranded in Gibraltar due to inclement weather. The Tourist Office staff are available to help book accommodation on their behalf, intercede with local agents and generally liaise with all parties concerned to ensure that as little hardship as possible is suffered by those stranded". Well, Mr Speaker, unless I am the Tourist Office I do not know who Government is talking about. I liaised with all the parties concerned and I wonder whether had it not been for the work of two taxi drivers whether the Tourist Office would even have been informed. It is mockery to say that Government

provides this service. It provided it at the insistence of two gentlemen who have nothing to do with the Government and was then followed through by myself, Mr Speaker, and it was a shame to answer in those terms. So then, Mr Speaker, comes the point, why should Government have been made responsible in the first place? There are a number of reasons for this. One because we have an ailing tourist industry and we are supposed to be doing everything within our powers to offer a more complete and personal service to tourists in Gibraltar. We cannot compete with Morocco or with Spain in terms of beaches, night attractions, we haven't got a chance, Mr Speaker. What we can, however, offer is the security and the homeliness which we have abundantly available in Gibraltar and furthermore, Mr Speaker, we can offer a kind of personalised service which is only possible because of our small size and that, Mr Speaker, is a very attractive package but it must be fulfilled, Mr Speaker, and this is exactly what I was asking the Government to do because it is in the interest of tourism in Gibraltar and we cannot afford not to pay attention to every possible problem of tourism. And another reason, Mr Speaker, is out of a sense of duty and the reason for that is very simple, Mr Speaker. The Gibraltar Government advertises in Le Journal de Tanger the hydrofoil service to Gibraltar. It is asking people to come to Gibraltar and use the hydrofoil service, it is selling Gibraltar, inter alia, by means of the hydrofoil service. They cannot just reap the benefit of the day tourists when things go well and ignore them when things go badly, there is a responsibility attached to an advertisement, Mr Speaker. And what makes it even more important to stress this sense of duty is the fact that this is not the first time that this has happened, it was the first time that it happened in this magnitude. I was informed during the events of this day which took four hours of my time and little thanks I received for it, I was informed that this had happened in isolated occasions for individuals in the past and that Government had been informed but in their wisdom, of course, they ignored it. Because, Mr Speaker, they had prior warning of this they should have felt a sense of responsibility when having ignored those warnings the catastrophe occurred, and it is a catastrophe when 60 tourists in one day are put out completely and they find themselves in a place where no one is prepared in any manner or form to help them. And again the third reason, Mr Speaker, and perhaps the reason which this Government may understand, is that for £500 and the little service that has been given you had the best investment that Gibraltar tourism had had in that month. For £500 it would have cost to have 60 advocates for the marvels of Gibraltar tourism and that is all that it would have cost, Mr Speaker, you would have had 60 people writing letters, telling their friends and a member of the Tourist Board commending Gibraltar's remarkable tourist service, a far better propaganda, Mr Speaker, and a far cheaper propaganda

than the one which ironically enough was actually being conducted by the Honourable Minister and the Director of Tourism, I wonder how much their expedition cost the public purse of Gibraltar, certainly more than £500, Mr Speaker. That £500 would have been the best advert for Gibraltar. We care even when we are not really responsible and that is the argument you could use. How much more would we care if we felt that we were fully responsible. And that kind of argument must hold water, Mr Speaker, and of course the converse is also true, Mr Speaker, if you don't do something for these tourists who feel that you are responsible, they are in Gibraltar, they know that they cannot get anywhere to Tangier, they are lost in Gibraltar, their bewilderment was directed towards those in power in Gibraltar. Those 60 people Mr Speaker, if they are not helped will be 60 people who will be putting Gibraltar's name down when they get back home and that is also of considerable importance. So, Mr Speaker, what should be done? The Government must ensure that they either prevent such an occurrence or that in the event of such an occurrence a contingency plan is put into effect quickly and effectively. Perhaps, Mr Speaker, and I don't think the Government should be responsible for the agents or the company in Morocco but the first thing that should be done is to ask and require the agency in Gibraltar to try and get an agreement from the principals in Morocco whereby in the event of any tourists being stranded he will automatically be given board and lodging and a return ticket and they should ask the agents to try and achieve that. But we all know, Mr Speaker, that the agents here are not in a position to demand anything of the principals so if the agents then come back to Government and say: "Look, we have tried and they have said: "Go to hell" or "We are not going to do what you want, we will go somewhere else", then the Government should at that stage intervene. This, perhaps, ties in with my earlier question for a Moroccan Consul, perhaps if we had one it would not be a problem but the Government, Mr Speaker, does have some way where no individual or private company does. The Government is doing a service to the north of Morocco by employing the number of Moroccans that we can employ and if it was necessary the Government could appeal to the Governor of Tangier to ensure that the principal company involved in this would ensure that the finance required in the event of a disaster would be forthcoming and if the Government cannot get the agents to provide such a fund and if the Government cannot themselves convince the Governor, then they should say: "Well, either we withdraw all adverts for tourism", or if we want to continue trying to bring tourists here we have got to set up our own emergency facilities and, Mr Speaker, it would not be very costly. We have already seen that 60 would only have cost Government £500, if Government made a prior arrangement with hotels and said: "You take in tourists for us at moments notice when we have got a problem and you can take it off your rates and electricity bills that you are not paying anyway",

that sort of an agreement. If Government planned things, Mr Speaker, this is only a suggestion, Mr Speaker, it is better than anything the Government has come up with so far. What I am asking is that the Government should work out a plan to prevent such an occurrence again and the answer that I was given, Mr Speaker, is mere eyewash.

HON MAJOR R J PELIZA:

Mr Speaker, I would like to make a couple of constructive suggestions and the first one is that we should thank my Honourable Friend here for having taken such an interest when, really, it was not his business at all and yet I think he went out of his way to try and pacify those tourists and encourage them to come back again, more than perhaps can be said for other people. Secondly, I think we congratulate the girls of the Tourist Office and the other people concerned in the Tourist Office, for, obviously, the marvellous work that they did. However, I think having gone so far one has to be critical of the Minister's Department in not having a contingency plan for that situation. I don't know whether this is the first time it has happened or whether it has happened before. If it has happened before, of course it is unpardonable. If it has not happened before I think we have got to put it right. It is easy, I would have thought, to make use of the airport terminal to try and accommodate those people for the night. It should be also possible to have a number of blankets ready for such situations. Also I think it should be possible to have given them a cup of tea. That would have been very much appreciated by those tourists as the Government doing everything possible for them. The money involved would have been negligible and in any case we are charging tourists who are leaving Gibraltar a tax every time they leave the airport. You collected about £85,000 last year for no reason whatsoever, I think that is a swindle in my view, but anyway if you have £85,000, yes, it is a swindle, why should we charge anyone leaving Gibraltar a tax, for what reason? I don't think it is right, I have always been against but it is there. Anyway, the money is there all I am saying is that there are £85,000 there and I think they could meet such a contingency out of that fund. How much to spend is your business but at least show that we are a civilised people here. This is a small community, this is not like London where people do not expect attention but when you come to a little place like a village you expect that and if you don't get it you are very annoyed. For that little gesture of nothing, really, nothing at all, the amount involved nothing, the effort hardly anything, just lack of foresight on the part of the Department, no imagination, no way of being prepared for such a situation and I think the Minister must take the blame for that whether he likes it or not and whilst I see that there are mitigating circumstances because this may not have happened before and they did not have the foresight, I think it is not justified that this should happen again.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, purely on a point of clarification. I would just like to draw the Honourable Member's attention to the fact that the £85,000 of departure tax is collected not only from tourists but from residents as well.

HON MAJOR R J PELIZA:

Even worse then, much more reason to have used it for that purpose.

HON H J ZAMMITT:

Mr Speaker, let me commence by saying that I am really astonished that this question, No.312, has required the House to have a motion on the Adjournment. I think the Honourable and Learned Mr Andrew Haynes is totally aware of the Gibraltar Tourist Office intervention in the whole setup from the moment he found that I was away in London and that the Director was away in Cannes, on two separate issues, the Acting Director, Mr Pearce, took over and in fact according to the correspondence that I have Mr Haynes, in fact, thanked Mr Pearce and the GTO staff for the part played. Mr Speaker, I would like to remind Mr Haynes of his unfairness in having involved Lady Hassan in this issue because the Chief Minister was informed directly by the Acting Director, Mr Pearce. Mr Pearce informed the Honourable and Learned Mr Andrew Haynes that Government would not accept financial responsibility for putting up these people, it was a matter for the agency to do so as is done with every other means of transport not covered by insurance, if they are good carriers then the particular airline, shipping line or bus route or whatever will put up people if need be but no Government in the world, large, small, Lilliputian or whatever you like, accepts a responsibility because of inclement weather to put up stranded passengers because of inclement weather, no Government at all and, in fact, Mr Speaker, by sheer coincidence the Honourable the Leader of the Opposition and myself were stranded on that particular same day at Gatwick and I didn't see anybody from the British Tourist Office there. I was very well looked after by GB Airways, very well looked after, by GB Airways, the agents of the airline we were using and therefore we expect that the agent or carrier should look after their failure in not being able to fulfill the promise of a return ticket to Morocco. But let us not go away with a dream that the Gibraltar taxpayer should assume the responsibility of a company or a carrier's failure and that is where the whole crux of the story lies. I remember vividly, Mr Speaker, in a supplementary to Question 312 on Wednesday, I invited the Honourable Member to inform me if to his knowledge there was any Government that undertook such responsibility for I

certainly have not heard of any Government so doing. The fact that the hydrofoil has an agency in Gibraltar is all the more reason why the agent in Gibraltar should demand from their principals a continuance of the service they are promising to carry out, all the more. Mr Speaker, what did occur on the day in question is that Mr Pearce from the Tourist Office went and saw the Chief Minister in his office and informed him of this and, quite rightly, he said: "Well, I am afraid this is not the Government's responsibility, it is the agent's responsibility". When the Honourable and Learned Mr Haynes was informed of this he insisted and took it up with the agents who came up with a figure of £8 for food, I understand, but nothing for accommodation, Mr Haynes then tried to contact the Chief Minister again and was unable to do so. Meanwhile Mr Pearce again tried to contact the Chief Minister and got in contact with Lady Hassan. It was then, having heard from Mr Pearce that the agents had afforded the princely sum of £8 per passenger, that Lady Hassan informed Mr Haynes that as far as she was concerned

HON A J HAYNES:

I thought Members were unwilling to cite the wife of the Chief Minister in this debate.

MR SPEAKER:

In fairness to the Government, they must be in a position to reply to any allegations that have been made.

HON H J ZAMMITT:

They raised it, Mr Speaker, that is why I am trying to explain that Lady Hassan is the wife of Sir Joshua but she is not the Deputy Chief Minister of the Government as the Honourable Member implied. What Lady Hassan said was that she understood that the agents had now provided £8 and as far as she was concerned she thought that had been sorted out and that was the information she had from Mr Pearce. Mr Speaker, whether the ticket has or does not have in small print or large print or is informative as to the company's or agency's responsibility is a matter for the individual traveller. Members of this House insure themselves against such liability. People who travel insure themselves, the company should insure itself. There is no need to involve the Gibraltar taxpayer in having to pay for a bill for which they have no responsibility. I know, Mr Speaker, that this Government takes the credit for everything that happens but you cannot say that we are responsible for the question of inclement weather, we just cannot possibly accept it. Mr Speaker, if the situation is that because a Member of this House particularly in the Opposition, is going to quote the wives of Ministers having

said this or the other by way of phone then he may find or they may find that our wives could rightly be instructed just to say 'nowt' or 'out for nowt', that is a Yorkshire expression, as opposed to being helpful as I think most wives normally are to Members of the Opposition. Certainly in my experience when I have had Members of the Opposition telephoning me or wanting any contact with me. So I think there should be some caution as to keeping our wives out of the political arena. Mr Speaker, so much then for the cowboy style in which the whole matter was dealt with. I think the Gibraltar Tourist Office the moment Mr Pearce got to know and I think the Honourable Member has been quite elegant about this, the moment Mr Pearce got to know about this he was down here in the Piazza Tourist Office. The girls here were at their entire service, they continued until something like 8.30 in the evening with them if the report I received is correct and I have no reason to disbelieve that. Mr Speaker, the fact that we advertise in the Journal de Tanger: We advertise the Viscount, we advertise the Mons Calpe, does that give Government liability perhaps to pay for accommodation of people who come over here via Mons Calpe or via Viscount on account of inclement weather? Surely not, Mr Speaker, let us be more realistic. No Government accepts it, whether we are large, whether we are small, whether of course we have to spend money in attracting tourists let us be quite reasonable and realistic about it. Government cannot prevent adverse weather, I think the Chief Minister has some power as to rain but certainly not gales and the like. As to the agency and principals that is a matter for the agents. Gibraltar cannot obtain a bad name through this good lady in the British Tourist Board. The Company will obtain a bad name. The company failed to provide the promised service, not the Gibraltar Government Tourist Office. Mr Speaker, I must rush through this very quickly, I lament once again that Major Peliza blames the Government. I would suggest to Major Peliza that after nearly 3 years that I have been acting Minister for Tourism, he has not had the interest, on one of his fleeting visits to Gibraltar, to visit the Gibraltar Tourist Office despite the fact that I have extended invitation after invitation and, equally, in London.

HON A J CANEPA:

Mr Speaker, before you rise perhaps you might give me an opportunity to extend to you, to all Honourable Members and to the Clerk and the staff of the House of Assembly my very best wishes to all and their families for a very happy Christmas and also for a very peaceful and prosperous 1983.

HON P J ISOLA:

Mr Speaker, I would like to associate myself entirely with the remarks of the Minister and wish our own warm wishes to the other side for Christmas and the New Year and to you, Mr Speaker, and the staff of the House.

MR SPEAKER:

I join with the season greetings of both sides of the House and thank them for their good wishes and I would also thank as the Honourable Mr Canepa has said, the members of the staff and of the information services who are always with us when we are sitting. I wish them a hearty Christmas and a prosperous New Year and having said that I will now put the question which is that this House do now adjourn sine die.

The question was resolved in the affirmative and the House adjourned sine die.

The adjournment of the House sine die was taken at 6.30 p.m. on Friday the 10th December 1982.